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LAWS
OF THE
TERRITORY OF HAWAII
PASSED BY THE
TWENTY-FIRST LEGISLATURE

REGULAR SESSION
1941

Convened on Wednesday, the Twentieth Day of February, and
Adjourned Sine Die on Wednesday, the Thirtieth Day of April.

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LIST OF OFFICERS AND MEMBERS OF THE LEGISLATURE OF THE TERRITORY OF HAWAII

REGULAR SESSION 1941

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D—Democrat 3

R—Republican 12

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D—Democrat 3

R—Republican 27

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LAWS OF THE TERRITORY OF HAWAII
PASSED AT THE
TWENTY-FIRST REGULAR SESSION OF THE
LEGISLATURE
1941

Title I. GENERAL LAWS.

**CHAPTER 1. COMMON LAW AND
STATUTES.**

HOLIDAYS.

[A-1] An Act to Amend Section 21 of the Revised Laws of Hawaii 1935, Relating to Holidays.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 21 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“Sec. 21. Holidays designated. The following days of each year are set apart and established as territorial holidays, to wit:

The first day of January,
The twelfth day of February,
The twenty-second day of February,
The Friday preceding Easter Sunday, known as Good Friday,
The thirtieth day of May,
The eleventh day of June, to be known as Kamehameha Day,
The fourth of July,
The first Monday in September, known as Labor Day,
The third Saturday in September,
The eleventh day of November, to be known as Armistice Day,
The twenty-fifth day of December, and all election days,

both primary as well as general, in such county or city and county wherein such election is held;

And any day designated by proclamation by the President of the United States as a day of thanksgiving, fasting or religious observance, or designated by proclamation by the governor of the territory as a holiday, shall be a territorial holiday; **provided**, however, that when any of such holidays fall on a Sunday, the same may be, by proclamation of the governor, observed upon the following Monday.

Whenever in the opinion of the governor a public emergency shall exist, and it shall to him seem to be in the public interest, he may by proclamation designate and proclaim as legal banking holidays in the territory such number of consecutive days as in his judgment the emergency may require, with power in him to extend the same as may seem advisable; which proclamation of holidays shall not be taken as relating to any business other than that of banking and kindred operations, nor as prohibiting, perforce, any voluntary conduct of banking business, in whole or in part, except to the extent declared in such proclamation or in any further proclamation in enlargement or modification thereof." [L. 1896, c. 66, s. 1; am. L. 1903, c. 55, s. 1; am. L. 1911, c. 167, s. 1; s. 137; am. L. 1915, c. 20, s. 1; am. L. 1919, c. 54, s. 1; am. L. 1923, c. 151, s. 1; am. L. 1933, c. 3, s. 1; R. L. 1935, s. 21; am. L. 1941, c. 132, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Became effective April 30, 1941, without the Governor's signature.)
H.B. 154, Act 132.

CHAPTER 3. EMINENT DOMAIN.

PURPOSES AND OBJECTS.

[A-2] An Act to Amend Section 50 of the Revised Laws of Hawaii 1935, Relating to the Purposes for Taking Private Property by Eminent Domain.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 50** of the Revised Laws of Hawaii 1935, is hereby amended by changing the period at the end of said section to a semicolon and by adding thereto the following: "also all land and property and interests therein necessary to be acquired for sites for triangulation stations and for rights

of way for access thereto by agents and employees of the Territory and by registered land surveyors and their surveying assistants”.

Section 2. This Act shall take effect upon its approval.

(Approved May 3, 1941.) **S.B. 23, Act 149.**

JURISDICTION AND PROCEDURE.

[A-3] An Act Relating to Eminent Domain Proceedings; Amending Sections 59 and 60 of Chapter 3 of the Revised Laws of Hawaii 1935, as Amended.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 59** of chapter 3 of the Revised Laws of Hawaii 1935, as amended by Act 184 (Series A-1) of the Session Laws of Hawaii 1937, is hereby further amended by inserting therein, following the period in the seventh line thereof, a new sentence to read as follows:

“In the event there is a class of persons owning or claiming some interest in the property sought to be condemned, who are too numerous to be served by personal service of the summons, or who would have to be ascertained by examination into the possible claims of a group of persons too numerous to permit identification of such defendants, the petition may include a statement of that fact, and such defendants may be joined in the petition by describing them as a class, and in such case it shall be unnecessary to state in the petition that such owners or claimants are unknown to the plaintiff.”

Section 2. **Section 60** of chapter 3 of the Revised Laws of Hawaii 1935, as amended by Act 184 (Series A-1) of the Session Laws of Hawaii 1937, is hereby further amended by inserting therein, following the period in the eighth line on page 2 of said Session Laws of Hawaii 1937, a new sentence to read as follows:

“In case defendants have been joined in the petition by describing them as a class, then the service of the summons upon such defendants may be made by publication thereof in a newspaper of general circulation in the county in which the property is situated, in the manner provided by section 4079.”

Section 3. This Act shall take effect upon its approval.

(Approved April 16, 1941.) **S.B. 387, Act 38.**

[A-4] An Act to Amend Section 65 of the Revised Laws of Hawaii 1935, as Amended by Act 184 of the Session Laws of 1937, Relating to Eminent Domain.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 65 of the Revised Laws of Hawaii 1935, as amended by Act 184 of the Session Laws of 1937, relating to eminent domain, is hereby amended to read as follows:

"Sec. 65. Payment of judgment, penalties. The plaintiff must within two years after final judgment pay the amount assessed as compensation or damages and upon failure so to do all rights which may have been obtained by such judgment shall be lost to the plaintiff; and if such payment shall be delayed more than thirty days after final judgment, then interest shall be added at the rate of five per centum per annum. Such payment shall be made to the clerk of the court rendering the judgment. The plaintiff shall within thirty days after such payment deposit in the mails of the United States of America a written notice addressed to the defendants, who have filed answers or appeared in court in the proceedings, or to their attorneys of record in the proceedings, if so represented, at their last known address, that such payment has been made, and the clerk of the court shall distribute the same to those entitled thereto in accordance with the order of the court. If the plaintiff shall fail to make such payment as aforesaid, the defendant shall be entitled to recover his costs of court, reasonable expenses and such damage as may have been sustained by him by reason of the bringing of the proceedings. If the plaintiff shall fail to give written notice of any such payment as aforesaid interest shall be added on the amount thereof at the rate of five per centum per annum until such written notice shall have been placed in the mails as aforesaid or until the defendant shall have received from the clerk of court the amount thereof to which he is entitled under the terms of the order of court, whichever event shall first occur. [L. 1896, c. 45, s. 17; R. L. 1935, s. 65; am. L. 1937, c. 184, s. 3; am. L. 1941, c. 55, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 21, 1941.) **H.B. 368, Act 55.**

CHAPTER 4. EXPENDITURE OF PUBLIC MONEY.

COMPETITIVE CONTRACTS.

[A-5] An Act to Amend Section 80-A of the Revised Laws of Hawaii 1935, as Enacted by Act 260, Series A-2, of the Session Laws of Hawaii 1939, Relating to Purchase of Materials, Supplies, Goods, Wares, Merchandise or Produce for Public Use.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 80-A** of the Revised Laws of Hawaii 1935, as enacted by Act 260, Series A-2, of the Session Laws of Hawaii 1939, is hereby amended:

(a) By substituting for the words:

“a permanent business in good faith in an established place of business in the territory and has not paid personal property taxes in the territory for a period of two years”,
in the 6th to the 8th lines of the second paragraph, the 9th to the 12th lines of the third paragraph, and the 8th to the 11th lines of the fourth paragraph, of said **section 80-A**, the following words:

“a business in good faith intended to be permanent in an established place of business in the territory for a period of three months”.

(b) By substituting for the words:

“a permanent business in good faith in an established place of business in the territory and who has paid personal property taxes in the territory for a period of two years”,
in the 4th to the 6th lines of the third paragraph of said section, the words:

“a business in good faith intended to be permanent in an established place of business in the territory for a period of three months”.

(c) By inserting between the 4th and 5th paragraphs of said **section 80-A**, the following paragraph:

“Where any bid is made to furnish materials, supplies, goods, wares, merchandise, or produce, manufactured or produced in the Territory of Hawaii, such bid shall be deemed the lowest bid for the award of such contract, if such bid is less than five per cent higher than the lowest bid to furnish like material, supplies, goods, wares, merchandise, or produce, which has not been manufactured or produced in the Territory of Hawaii. This paragraph shall supersede any other provision of this section in any case in which it may apply.”

(d) By inserting between the 5th and 6th paragraphs of said **section 80-A**, before amendment, the following paragraph:

“In the case of purchases by the territory, the governor, and, in the case of purchases by a county, the board of supervisors, may establish and from time to time revise and file with the auditor a list of local products to the purchase of which this section shall not apply.”

Section 2. This Act shall take effect upon its approval.

(Approved May 20, 1941.) **H.B. 479, Act 308.**

MASTERS, SALARY WITHHELD FOR ACTING AS.

[**A-6**] An Act Amending Act 13 of the Session Laws of Hawaii 1939, Prohibiting Certain Public Officers or Employees from Receiving Compensation for Services as Masters to Examine Accounts of Guardians, Trustees, Executors and Administrators, Providing Penalties or Forfeitures for the Acceptance of Such Compensation, Prohibiting the Issuance of Certain Warrants and Validating the Prior Acts of Certain Officers, Boards, Commissions and Courts.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 13 of the Session Laws of Hawaii 1939, is hereby amended by amending section 1 thereof to read as follows:

[**Sec. 96-A.**] “Section 1. [**Certain public officers not to receive pay as masters.**] No person holding any salaried office or employment in the executive or judicial branches of the government of the Territory of Hawaii or any county thereof, or holding any executive or judicial office or employment any part of the compensation for which is paid by the Territory or any county, shall receive, directly or indirectly, any fee or other remuneration for services rendered as master to examine, pass or report upon any account filed in any court of the Territory by any guardian, trustee, executor or administrator, and any such person receiving or accepting any such fee or remuneration shall by virtue of such acceptance be deemed to have released and forfeited all claim and right thereafter to any compensation payable by the Territory or county by virtue of said office or employment, and in addition, if he is holding an office or employment, subject to the power of the legislature of the

Territory to provide for forfeiture thereof as herein provided, shall be deemed to have forfeited and been ipso facto discharged from his said office or employment; and in any event upon acceptance of any such fee or remuneration the auditor of the Territory or of any county is hereby prohibited from issuing any warrant to such person except for services rendered prior to such forfeiture. This section shall not apply to officers whose only compensation from the government is paid pursuant to any territorial statute upon a per diem basis or upon a fee basis, or to officers or employees appointed or employed by contract to render a temporary professional service. Traveling or other expenses paid or payable by the Territory or any county to any officer or employee shall not be deemed to be compensation."

Section 2. All acts of any officer, board, commission or court performed prior to the effective date of this Act, which had this Act been in effect at the time of such performance, would have been valid under the provisions of this Act, are hereby approved, ratified and confirmed. This Act shall not invalidate any act of any officer, board, commission or court performed prior to the effective date of this Act, which, under the law then in effect, would otherwise be valid.

Section 3. This Act shall take effect upon its approval.

(Approved April 14, 1941.) S.B. 60, Act 23.

PAY OF OFFICIALS ON ACTIVE MILITARY SERVICE.

[A-7] An Act Relating to Officers and Employees of the Territory of Hawaii and the Several Counties Thereof on Active Duty With the Armed Forces of the United States.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 98-A.] Section 1. [Reemployment upon termination of military service.] Every officer or employee in the employment of the territory or any county thereof who, in order to perform active service and duty with the armed forces of the United States, has left or leaves his position (other than a temporary position) with the territory or county, and who (1) receives a certificate under section 8 of the Selective Training and Service Act of 1940 or under section 3 of Public Resolution No. 96, 76th Congress, approved August 27, 1940 or any federal law heretofore or hereafter enacted, (2) is still qualified to perform the duties of such position, and, (3) makes

application for reemployment within 40 days after he is relieved from such training and service, shall be restored to such position or to a position of like seniority, status, and prevailing pay. Such officer or employee shall be considered as having been on furlough or leave of absence during his period of absence.

[Sec. 98-B.] Section 2. [Status of persons temporarily employed.] Any provision of the law to the contrary notwithstanding, any person or persons who shall have filled or who may fill any position left vacant by such officer or employee shall be dismissed from such position upon the restoration of such officer or employee to such position under section 1 hereof or any federal statute, and in no case shall Act 187 of the Session Laws of Hawaii 1939 or any rules or regulation prescribed thereunder be applicable to such dismissal, **provided however**, if such person shall have been employed in a position subject to the provisions of said Act 187 then such person shall have his name placed on an appropriate re-employment list.

The civil service commission shall in writing inform every person who is now filling or may hereafter fill any such position of the status of his employment and of the provisions of this Act.

Section 3. This Act shall take effect upon its approval and shall continue in force until June 30, 1945.

(Approved May 6, 1941.) **H.B. 185, Act 160.**

SALARIES, EXPENSES.

[A-8] An Act Adding to the Revised Laws of Hawaii 1935, a New Section, to be Numbered Section 102-A, Relating to the Payment of Accrued Salaries of Public Employees upon Termination of Service.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby added to the Revised Laws of Hawaii 1935, a new section, to be numbered section 102-A, reading as follows:

"Sec. 102-A. Payment of salaries or wages upon termination of service. Whenever in any case, and for whatever cause, the employment of any officer, agent, employee or other person in the public service shall be terminated, he shall be

paid immediately upon the approval of the head of the department in which he was engaged whatever salary or wages that are due him."

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1941.) **H.B. 514, Act 285.**

Am. S. 93
P. S. S. 41

VACATIONS AND LEAVES OF ABSENCE.

[A-9] An Act Amending Chapter 4 of the Revised Laws of Hawaii 1935, as Amended, by Amending Sections 103 and 104 Thereof, by Repealing Sections 105, 107 and 108 Thereof and by Renumbering Section 106 Thereof Section 105 and Amending Said Section 105, as Renumbered, and by Amending Chapter 88 of the Revised Laws of Hawaii 1935, as Amended, by Amending Section 3128.1 and Repealing Section 3128.2 Thereof, as Enacted by Act 242 of the Session Laws of Hawaii 1939, All Relating to Vacations and Sick Leaves of Officers and Employees of the Territory of Hawaii and the Several Counties and City and County, Providing for the Promulgation of Rules and Regulations Therefor and Providing for the Appropriation of Moneys to Defray Expenses of Promulgating and Printing, Publishing and Distributing Such Rules and Regulations.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 103 of the Revised Laws of Hawaii 1935, as amended by Act 213 of the Session Laws of 1935, is hereby amended to read as follows:

Am. S. 49
P. S. S. 42

"Sec. 103. Vacations of public officers and employees. With the exception of school teachers and school principals employed in the public schools of the territory, the instructional staff of the University of Hawaii and members of the city and county fire department, all officers and employees in the service of the territory or of the several counties and city and county shall be entitled to and granted a vacation with pay each calendar year calculated at the rate of one and three quarters working days for each month of service; provided that an annual vacation, or any part thereof unused, may be accumulated for succeeding years, except that the total accumulation shall in no event exceed fifty-four working days. The vacation shall be granted at such time as the head of the department may designate. Except in the case of members of the city and county fire department, officers or employees

working without a regular weekly holiday shall be entitled to and granted four days leave with pay for every twenty-eight days of service, which leave shall not be accumulated or considered as vacation.

Members of the city and county fire department who shall have complied with the provisions of section 89 shall be entitled to and granted a vacation with pay each calendar year of two and one-half calendar days for each month of service; provided that such annual vacation, or any part thereof unused, may be accumulated for succeeding years, except that the total accumulated shall in no event exceed ninety calendar days. The vacation shall be granted at such time as the head of the department may designate.

When an officer or employee of the territory or the county or city and county, as the case may be, is transferred from one department to another within the same government, he shall be given credit for the vacation earned or accumulated in the department from which he is transferred and such department's appropriation shall be charged for such vacation.

Rules and regulations shall be promulgated by the governor with respect to vacations of territorial officers and employees, and by the mayor of the city and county and the chairman of the board of supervisors of each county, subject to the approval of the respective boards of supervisors, with respect to vacations of officers and employees of the city and county and the several counties and the respective boards, commissions and departments thereof, in accordance with law and not inconsistent with this section, for the proper administration and regulation of vacations so as to obtain, so far as possible, uniformity and practicability in the application of this section." [L. 1915, c. 199, s. 1; am. L. 1917, c. 153, s. 1; am. L. 1921, c. 201, s. 1; am. L. 1923, c. 82, s. 1; am. L. 1931, c. 181, s. 1; am. L. 1932, 2d., c. 4, s. 1; am. L. 1933, c. 113, s. 1; R. L. 1935, s. 103; am. L. 1935, c. 213, s. 1; am. L. 1941, c. 329, s. 1.]

Section 2. Section 104 of the Revised Laws of Hawaii 1935, as amended by Act 140 of the Session Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 104. Sick leaves of public officers and employees. With the exception of school teachers and school principals employed in the public schools of the territory and the instructional staff of the University of Hawaii, all officers and employees in the service of the territory or of the several counties and city and county shall be entitled to and granted cumulative sick leave with pay at the rate of one and three quarters working days for each month of service, provided that the

total accumulation thereof shall not exceed fifty-four working days; provided, further, that additional sick leave with pay, in excess of that which the officer or employee is entitled to, may be granted with the written approval of the governor, mayor or chairman of the board of supervisors, as the case may be.

Rules and regulations shall be promulgated by the governor with respect to sick leaves of territorial officers and employees, and by the mayor of the city and county and the chairman of the board of supervisors of each county, subject to the approval of the respective boards of supervisors, with respect to sick leaves of officers and employees of the city and county and the several counties and the respective boards, commissions and departments thereof, in accordance with law and not inconsistent with this section, for the proper administration and regulation of sick leaves so as to obtain, so far as possible, uniformity and practicability in the application of this section." [L. 1925, c. 249, s. 1; am. L. 1931, c. 181, s. 2; am. L. 1932, 2d., c. 4, s. 2; am. L. 1933, c. 113, s. 2; R. L. 1935, s. 104; am. L. 1935, c. 140, s. 1; am. L. 1941, c. 329, s. 2.]

Section 3. **Sections 105, 107 and 108** of the Revised Laws of Hawaii 1935, are hereby repealed.

Section 4. **Section 106** of the Revised Laws of Hawaii 1935, is hereby renumbered **section 105**.

Section 5. Section 105, as so renumbered, is hereby amended to read as follows:

"Sec. 105. No remuneration when. No officer or employee referred to in section 103 shall be entitled to or allowed any remuneration after his employment is terminated for any vacation, annual or accumulated, to which he may have been entitled but which, for any reason whatsoever, he failed to take." [L. 1931, c. 181, s. 3; R. L. 1935, s. 106; am. L. 1941, c. 329, s. 5.]

Section 6. **Section 3128.1** of the Revised Laws of Hawaii 1935, as enacted by Act 242 of the Session Laws of 1939, is hereby amended by amending the first sentence thereof to read as follows:

"The provisions of sections 103 and 104 relative to vacations and sick leaves for city and county employees shall be mandatory, and no approval of any such vacation or sick leave by the board of supervisors shall be or become a condition precedent to the taking thereof or to the right of any employee to receive pay for any vacation or sick leave period earned and legally taken."

Section 7. **Section 3128.2** of the Revised Laws of Hawaii 1935, as enacted by Act 242 of the Session Laws of Hawaii 1939, is hereby repealed.

Section 8. There is hereby appropriated out of the general fund of the Territory of Hawaii so much money as is necessary to defray all expenses in connection with the promulgation of the governor's rules and regulations above referred to, and amendments thereto, and the printing, publishing and distribution thereof. Such money shall be expended by the governor and shall be disbursed upon warrants drawn by the auditor based upon vouchers approved by the governor.

Section 9. This Act shall take effect upon its approval, provided that it shall not affect vacations, annual or accumulated, already earned, or sick leaves already authorized; and provided, further, that all officers and employees shall be allowed and credited with vacation leave for service rendered prior to the effective date hereof calculated on the basis, however, of one and one-half working days vacation leave for each month of such service.

(Approved May 21, 1941.) **H.B. 121, Act 329.**

CHAPTER 5. GENERAL DEPARTMENTAL REGULATIONS.

RECORDS OF EXAMINATIONS, DISPOSAL OF.

[A-10] An Act Relating to Examinations Given by Statutory Boards or Commissions.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 149-A.] Section 1. [Disposal of records of examinations.] All statutory boards or commissions authorized or empowered to hold examinations for candidates or applicants shall preserve all records of each examination, including, without prejudice to the generality of the foregoing, applications, questions, answers and grades, until after the end of the legislative session following such examination.

Section 2. This Act shall take effect upon its approval.

(Approved May 10, 1941.) **S.B. 464, Act 198.**

RULES AND REGULATIONS.

[A-11] An Act to Amend Act 7 (Series A-7) of the Session Laws of Hawaii 1939, Relating to the Holding of Public Hearings and the Publication of Notice Thereof With Respect to the Making of Certain Rules and Regulations Having the Force and Effect of Law.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 7 (Series A-7) of the Session Laws of Hawaii 1939, is hereby amended by amending section 1 thereof to read as follows:

[Sec. 154.] "Section 1. [Public hearings on rules and regulations having the effect of law.] All officers who and all boards, commissions and other governmental agencies which have the power to make rules and regulations having the force and effect of law shall prior to the making of any such rule or regulation, hold a public hearing upon such proposed rule or regulation of which a notice shall first have been published in a newspaper of general circulation (one publication) not less than four days before the date set for such hearing. Such notice shall state the time and place for such hearing and the general purpose of the proposed rule or regulation to be considered at such hearing. The time within which such notice shall be published shall be computed by including the first day (the day of publication) and excluding the last day. This section shall not apply to rules or regulations which are made or prescribed by any court or a judge thereof; or to rules or regulations which are made or prescribed under sections 115, 558, 646, 801, 1032, 1169, 1231.2, 1265.1, 1558, 1734, 4576, 6409, 6416, 6454, 7762, 7818, 7822, 7830, 7924 or 7952 of the Revised Laws of Hawaii 1935, or as each section may be amended, or to such other rules or regulations as the governor may in writing decide relate principally to the management or regulation of territorial departments, instrumentalities, institutions, personnel, property, accounts, funds or expenditures. Such decisions shall be filed with the secretary of the Territory and shall be final and conclusive in each case and not reviewable by any court or tribunal."

Section 2. All acts of any officer, board, commission and other governmental agency performed prior to the effective date of this Act, which, had this Act been in effect at the time of such performance, would have been valid under the provisions of this Act, are hereby approved, ratified and confirmed. This section shall not invalidate any act of any officer, board, commission or other governmental agency performed prior to

the effective date of this Act, which, under the law then in effect, would otherwise be valid.

Section 3. This Act shall take effect upon its approval.

(Approved May 21, 1941.) **S.B. 142, Act 316.**

[A-12] An Act Relating to Rules and Regulations Having the Force and Effect of Law.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 154-A.] Section 1. [Definitions.] Where appearing in this Act, the term "governor" shall mean the governor of the Territory of Hawaii, "secretary" shall mean the secretary of the Territory of Hawaii, and "officer" shall mean and include any officer (other than the governor), department, board, commission, instrumentality or agency of or in the executive branch of the government of the Territory of Hawaii or any political or municipal subdivision thereof.

[Sec. 154-B.] Section 2. [Records of rules and regulations.] It shall be the duty of every officer who is vested by law with the power to make rules and regulations having the force and effect of law and who heretofore has or whose predecessor or predecessors have made, or who hereafter shall make, rules and regulations which now, or hereafter shall, have the force and effect of law, to make or cause to be made entire literal copies thereof in a book or books of record to be kept for such purpose. At the end of each such rules and regulations a note shall be made containing (1) the date or dates upon which such rules and regulations were made, (2) the name of the officer making the same, (3) the newspaper (together with the date or dates of publication) of the notice of public hearing, if any, on any such rules and regulations, (4) the newspaper (together with the date or dates of publication) in which such rules and regulations were printed, if at all, and (5) the certificate of the officer recording the same that the recorded copy is a full, true and correct copy of the original or, in case of a destroyed or lost original, the copy on file in his office. All such rules and regulations heretofore prescribed and still in force and effect shall be recorded within four months after the effective date of this Act. All such rules and regulations hereafter made shall be recorded within ten days after their promulgation.

[Sec. 154-C.] Section 3. [Duty of secretary.] It shall be the duty of the secretary to make or cause to be made, in the manner

and within the times required of other officers by this Act, a record of all rules and regulations having the force and effect of law which heretofore have been prescribed by the governor and still are in force and effect, or which hereafter may be prescribed by the governor.

[**Sec. 154-D.**] Section 4. [**Duty of other officers.**] It shall also be the duty of every officer required by sections 2 and 3 of this Act to make a record of rules and regulations, to prepare, within the time prescribed for their recordation, a detailed and consolidated index of all such rules and regulations and to revise the same, from time to time, as may be necessary to afford accurate and easy reference to the provisions thereof at all times.

[**Sec. 154-E.**] Section 5. [**Amendments and repeals.**] When any rule or regulation amending, repealing or otherwise altering a rule or regulation theretofore recorded shall be recorded, it shall be the duty of the officer charged with the recording thereof, to make or cause to be made upon the margin of the record of the rule or regulation so amended, repealed or otherwise altered, a note of reference to the book and page of the record and the date of adoption of the rule so amending, repealing or otherwise altering the same.

[**Sec. 154-F.**] Section 6. [**Records to be open to public.**] All books of record of rules and regulations and indexes thereof by this Act required to be made, shall be kept in the office of the officer making the same, and shall, during business hours, be open to the inspection of the public.

[**Sec. 154-G.**] Section 7. [**Records as evidence.**] Such books of record of rules and regulations shall be competent evidence in any court of the rules and regulations therein contained, including their due prescription and promulgation.

[**Sec. 154-H.**] Section 8. [**Filing of records with secretary, clerk.**] It shall be the further duty of every officer hereafter making rules and regulations having the force and effect of law to file attested copies thereof, in the case of the Territory, with the secretary, or, in the case of a county, with the clerk of the county, who shall mark the date of their receipt thereon and shall file such copies according to and under the names of the officers making the same in the order of their prescription.

[**Sec. 154-I.**] Section 9. [**Governor to prescribe form.**] The governor shall prescribe the character, size and form of the books of record and the form and detail of the indexes by this Act required to be made and kept, and shall make such rules

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and regulations as he may deem proper for uniformly carrying out the provisions of this Act.

[Sec. 154-J.] Section 10. **[Adoption of codes and specifications.]** In the case of any officer expressly authorized by law to make rules and regulations adopting or prescribing certain codes or specifications by reference to their title or otherwise, it shall be deemed full compliance with this Act if such rules and regulations are recorded and filed as in this Act provided without recording such codes or specifications; provided, however, that such codes or specifications shall be filed with such rules and regulations with the secretary, shall be kept with the books of record of rules and regulations in the office of the officer making the same, shall, during business hours, be open to the inspection of the public and shall be properly indexed and included in the index prescribed by section 4 of this Act.

[Sec. 154-K.] Section 11. **[Approval of existing rules and regulations.]** All rules and regulations having the force and effect of law which have been heretofore made by any officer, having at the time express or implied authority under any statute to make such rules and regulations, and which are recorded and filed as by this Act provided shall, upon such recordation, be and the same are hereby approved, ratified and confirmed. It shall be conclusively presumed that such rules and regulations were duly made, prescribed and promulgated, any provision of law to the contrary notwithstanding.

Section 12. This Act shall take effect upon its approval.

(Approved April 23, 1941.) S.B. 367, Act 80.

CHAPTER 5 B.

HAWAII LOYALTY LAW.

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[A-13] An Act Relating to Officers and Employees of the Territory and the Several Counties Thereof; Providing That Such Officers and Employees Shall Take and Subscribe the Oath or Affirmation Herein Prescribed; Conferring Certain Powers and Imposing Certain Duties Upon Certain Officers, Departments, Commission, Board and Agencies Herein Mentioned; Providing Penalties; Appropriating Funds for Its Administration; and Repealing All Laws or Parts of Laws Inconsistent Herewith.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 156-A.] Section 1. **[Oath required of public employees; form.]** All persons holding any office or employment

in the government of the territory or any county thereof, or holding any office or employment any part of the compensation for which is paid by the territory or any county shall, before July 1, 1941, take and subscribe in writing the following oath:

“I _____, do solemnly swear and declare, on oath, that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I do not hold membership in, pay assessments, dues, or make contributions to any organization or any political party which advocates the overthrow of the constitutional form of government of the United States of America or any change in the government of the United States of America, except as provided by its Constitution; that I take this obligation freely, without any mental reservation or purpose of evasion; So help me God.”

Upon being satisfied as to the sincerity of any person claiming that he is unwilling to take the above prescribed oath only because due to religious beliefs he is unwilling to be sworn, he may be permitted, in lieu of such oath, to make his solemn affirmation which shall be in the same form as the said oath except that the words “sincerely and truly affirm” shall be substituted for the word “swear” and the phrases “on oath” and “So help me God” shall be omitted. Such affirmation shall be of the same force and effect as the prescribed oath.

The oath or affirmation shall be subscribed in duplicate before the officer administering the same, who shall endorse thereon the fact that the oath was subscribed and sworn to or the affirmation was made together with the date thereof and affix the seal of his office or of the court of which he is a judge or clerk.

It shall be the duty of every notary public or other public officer by law authorized to administer oaths to administer the oath or affirmation by this Act prescribed and to furnish the required endorsement and authentication. No charge shall be made for the performance of this duty.

[Sec. 156-B.] Section 2. [Forfeiture of compensation for failure to take.] Any person mentioned in section 1 who shall fail or refuse to take the oath or make the affirmation therein prescribed shall, by reason of such failure or refusal, be deemed to have released and forfeited all claim or right thereafter to any compensation payable by the territory or any county, and in addition, if he is holding an office or employment, subject

to the power of the legislature of the territory to provide for the forfeiture thereof, shall be deemed to have forfeited and abandoned and been ipso facto removed or discharged from his said office or employment; and, in any event, the auditor of the territory or of any county is hereby prohibited from issuing any warrant to such person except for services rendered prior to July 1, 1941.

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[Sec. 156-C.] Section 3. **[New employees to take oath.]** All persons hereafter appointed or employed in the government of the territory or any county thereof, or appointed to or employed in any office or employment any part of the compensation of which is paid by the territory or any county shall, before entering upon the duties of their respective offices or employments, take and subscribe the oath or affirmation prescribed in section 1, which shall be administered or made and subscribed in the manner in said section provided.

[Sec. 156-D.] Section 4. **[Disqualification upon failure to take oath.]** Any person mentioned in section 3 who shall fail or refuse to take the oath or make the affirmation therein prescribed shall be disqualified to hold any office or employment under the territory or any county thereof, shall not be permitted to enter upon the duties of any such office or employment, and shall be deemed to have released and forfeited all claim or right thereafter to any compensation payable by the territory or any county thereof and, in any event, the auditor of the territory or of any county is hereby prohibited from issuing any warrant to any such person for any services.

[Sec. 156-E.] Section 5. **[Filing of oaths.]** (1) The oath or affirmation of each territorial officer or employee, when taken or made as in sections 1 and 3 prescribed, shall be delivered, in duplicate, to the head of the department in which the person is an officer or employee, or, in the case of the head of a department, to the governor. The head of the department or the governor, as the case may be, shall file a copy with the civil service commission and in his own department or office. The civil service commission of the territory shall immediately certify to the auditor or other officer, whose duty it is to pay or draw, sign or issue any warrant or check for the salary or compensation of each such person the name and position of each person taking or making the said oath or affirmation.

(2) In the case of an officer or employee in the judicial branch of the government, the oath or affirmation by sections 1 and 3 prescribed shall be delivered, in duplicate, in the case of a court of record, to the chief clerk thereof, and, in the

case of a district court, to the district magistrate thereof, provided, however, that the oath or affirmation of each district magistrate, member of the tax appeal court or other such territorial court shall be delivered to the chief justice of the supreme court and of each chief clerk of a court of record to the presiding judge thereof. The oath or affirmation shall then be filed in the same manner and the name and position certified as in paragraph 1 provided.

(3) In the case of an officer or employee in the legislative branch of the government, the oath or affirmation by sections 1 and 3 prescribed shall be delivered, in duplicate, to the clerk of the body of which the person is an officer or employee, or, in case of the clerk, to the presiding officer thereof. The oath or affirmation shall then be filed in the same manner and the name and position certified as in paragraph 1 provided.

(4) The oath or affirmation of each county officer or employee, when taken or made as in sections 1 and 3 prescribed, shall be delivered, in duplicate, to the head of the department in which the person is an officer or employee, or, in the case of the head of a department or a supervisor, to the mayor or chairman of the board of supervisors, as the case may be. The head of the department or the mayor or chairman of the board of supervisors, as the case may be, shall file a copy with the civil service commission of the county of which he is an officer and in his own department or office. The civil service commission shall immediately certify to the auditor or other officer whose duty it is to pay or draw, sign or issue any warrant or check for the salary or compensation of each such person the name and position of each person taking or making the said oath or affirmation.

(5) In all cases not hereinbefore provided for, the oath or affirmation shall be delivered to the governor and then filed in the same manner and the name and position certified as in paragraph 1 provided.

Upon being filed, each such oath or affirmation shall become a public record and open, at all times during business hours, to public inspection.

As used in this Act the terms "head of the department" or "department head" mean the head of any department, commission, board, agency, instrumentality or other body.

[Sec. 156-F.] Section 6. [In addition to other oaths.] The oath or affirmation by this Act prescribed and required shall be in addition to any other oath or affirmation by law prescribed for or required of any officer or employee.

[Sec. 156-G.] Section 7. [Candidates for elections, oaths

required of.] The name of no candidate for any county office shall be printed upon any official ballot, in any primary or general election, unless the candidate shall have taken and subscribed the oath or affirmation prescribed by section 1 and, at the time of filing his nomination papers, shall have filed, in triplicate, copies, duly subscribed and endorsed, of the said oath or affirmation. In the event of his election one copy of the oath or affirmation shall be transmitted to and filed with the mayor or chairman of the board of supervisors as the case may be, one shall be transmitted to and filed with the auditor of the county, and one copy shall be retained with the nomination papers.

Any elected county officer who shall fail or refuse to take or subscribe the oath or affirmation prescribed and in the manner and time provided in this Act, shall be immediately removed from office in the manner provided in section 2831 or 3060 of the Revised Laws of Hawaii 1935, as the case may be; provided, however, that it shall not be necessary to charge any such officer failing or refusing to take or subscribe the said oath or affirmation on a petition of citizens and voters or of legal voters, but that any such officer shall be so charged by the county or city and county attorney, and; provided further, that the several county attorneys and the city and county attorney are hereby authorized and directed to immediately institute removal proceedings against any such officer failing or refusing to take and subscribe the oath or affirmation prescribed by this Act.

[Sec. 156-H.] Section 8. [Applicants for civil service examinations, positions, oath required of.] The several civil service commissions shall by rule or regulation require all applicants for examination to take and subscribe the oath or affirmation prescribed in section 1, and no person shall be permitted to take any such examination and the name of no person shall be placed upon any registration, employment or reemployment list who has not taken and subscribed the said oath or affirmation.

The provisions of this section shall apply to existing registration, employment or reemployment lists and the names of all persons who, within ten days after being notified to take or make the prescribed oath or affirmation, fail to do so shall be removed from any such lists and the name of no such person shall be certified to a head of a department for appointment or employment.

Upon the removal or discharge of any person who shall fail or refuse to take the oath or affirmation prescribed and required by sections 1 and 3 of this Act, the provisions of Act 187 of the Session Laws of Hawaii 1939 shall not be applicable.

[**Sec. 156-I.**] Section 9. [**Persons employed under contract.**] The provisions of this Act shall apply to any person appointed or employed under any contract by the territory or any county and any such person failing or refusing to take the oath or affirmation prescribed and required by sections 1 and 3 of this Act shall be removed or discharged as by this Act provided. All such contracts shall contain a provision requiring any person appointed or employed thereunder to comply with this Act. This section shall also be applicable to contracts made for the exchange of personnel.

[**Sec. 156-J.**] Section 10. [**Claims against government, barred when.**] The provisions of chapter 127 of the Revised Laws of Hawaii 1935 shall not apply to any person removed or discharged under the provisions of this Act nor to any claim for wages, salary or compensation of any such person.

No court shall have jurisdiction to hear and determine any claim for wages, salary or compensation of any person lawfully removed or discharged under the provisions of this Act.

This section shall not be construed so as to prohibit any court of competent jurisdiction from entertaining or hearing any proper suit or action of which it would otherwise have jurisdiction for the removal or discharge of any officer or employee refusing or failing to comply with the provisions of this Act.

[**Sec. 156-K.**] Section 11. [**Consent of Senate to Governor's removal of appointees.**] In the case of any officer who may only be removed from office by the governor by and with the advice and consent of the Senate of the territory and who shall fail or refuse to take the oath or make the affirmation by this Act prescribed, the advice and consent of the Senate is hereby given to such removal and, in any such case, the governor is requested to remove any such officer by and with the consent so given.

[**Sec. 156-L.**] Section 12. [**Rules and regulations; Governor empowered to make.**] The governor may from time to time make such rules or regulations as he may deem necessary concerning the administration of this Act. Without limitation to the generality of the foregoing, such rules or regulations may prescribe standard forms; provide for the printing and distribution of such forms, for the qualifications, oath, compensation and duties of interpreters, for the administration of the oath or affirmation through interpreters, for the administration of the oath or affirmation and the powers and duties of officers administering the same, for the subscribing of oaths and affirmations and the marking thereof by persons unable

to subscribe their names, for the delivery and filing of oaths or affirmations, for the duties of the respective civil service commissions and auditors, and for the duties of all territorial and county officers, commissions, boards and agencies under this Act.

Such regulations shall apply to the territory and the several counties thereof and shall not require a public hearing thereon or publication in order to be valid.

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131 [Sec. 156-M.] Section 13. [Waiver of oath by Governor, when allowed.] The governor may waive compliance with all or any part of the provisions of this Act in respect to the following classes of officers or employees or any portion thereof:

1. Officers or employees of the territory (including kokuas and voluntary helpers) located or stationed at the settlement of Kalaupapa or the Kalihi receiving station;
2. Institutional inmate or patient employees or help in territorial or county institutions;
3. Aliens employed by the territory or any county, under the exceptions designated (b) and (c) of section 86 of the Revised Laws of Hawaii 1935, as amended; and
4. Referees, receivers, masters, and jurors.

[Sec. 156-N.] Section 14. [Disbursing officers, restrictions on.] No officer of the territory or any county thereof whose duty it is so to do, shall authorize the drawing, signing or issuing of or shall draw, sign or issue any warrant on the treasury of the territory or any county or other disbursing agency of or for the territory or any county or against funds available for such purpose for the payment of any salary or compensation to any person in the public service of the territory or any county whose appointment, employment or retention has not been in accordance with this Act and any rules or regulations in force thereunder. Any salary or wage paid contrary to the provisions of this Act and the rules or regulations established thereunder may be recovered from any person approving such payment or from any officer authorizing the signing or countersigning of a voucher, payroll, check or warrant for such payment in an action maintained, in the case of the territory, by the attorney general or, in the case of a county, by the county attorney, or, in the case of either the territory or a county, by any taxpayer who is a citizen. All moneys recovered in any action brought under this section shall, in case of the territory, be paid into the treasury of the territory, or, in case of a county, be paid into the treasury of such county.

[Sec. 156-O.] Section 15. [False oath; penalty.] Whoever wilfully and falsely takes or subscribes the oath or affirmation by this Act prescribed, when required or authorized to take the same, shall be subject to the punishment for perjury.

Section 6111 of the Revised Laws of Hawaii 1935 shall apply to any indictment for the crime prescribed by this section.

Any person convicted under this Act shall be forever barred from holding office or employment under the government of the territory or any county thereof, and he shall not be eligible for suspension of imposition or execution of sentence or probation.

[Sec. 156-P.] Section 16. [Exceptions.] To the extent that the territory is without authority to require, under the Constitution or laws of the United States, compliance by any territorial officer or employee herewith, this Act shall not apply to any such officer or employee; provided, however, that it shall apply to the extent that it or any part or parts thereof can lawfully be made applicable; provided, further, that any such officer or employee may have the privilege to fully and voluntarily comply herewith and, in such event, any oath or affirmation of any such officer or employee may be taken or made, subscribed and endorsed, delivered and filed as by this Act provided.

[Sec. 156-Q.] Section 17. [Appropriation.] The sum of two thousand dollars (\$2,000.00) is hereby appropriated from the general revenues of the Territory of Hawaii, not otherwise appropriated, for the printing and distribution of standard forms of oath and affirmation and rules or regulations prescribed under this Act. Such forms and rules or regulations shall be furnished free of charge to territorial officers and employees. The appropriation shall be expended upon warrants drawn by the territorial auditor upon vouchers approved by the governor. All other expenses of the administration of this Act shall be paid out of the respective appropriations of the officers, departments, boards, commissions or agencies required to perform any duty under this Act and to the extent necessary to perform such duty.

The board of supervisors of each county is hereby directed and authorized to immediately appropriate such sums of money, not to exceed two thousand dollars (\$2,000.00), as shall be necessary to print and distribute standard forms of oath and affirmation and rules or regulations prescribed under this Act. Such forms and rules or regulations shall be furnished free of charge to county officers and employees. All other expenses shall be paid by each county in the same manner as provided for the territory.

[**Sec. 156-R.**] Section 18. [**Saving clause.**] If any provision of this Act, or the application of any provision to any person or circumstance shall be held invalid, the remainder of the Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

If any section, sentence, clause or phrase of this Act is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act. The legislature hereby declares that it would have approved this Act and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, subsections, clauses or phrases be declared unconstitutional or invalid.

[**Sec. 156-S.**] Section 19. [**Repeal of inconsistent laws.**] All laws or parts of laws inconsistent herewith are hereby repealed.

[**Sec. 156-T.**] Section 20. [**Title.**] This Act may be cited as the "Hawaii Loyalty Act."

Section 21. This Act shall take effect upon its approval.

(Approved April 29, 1941.) **H.B. 306, Act 128.**

Title II. AGRICULTURE AND FORESTRY.

CHAPTER 7. AGRICULTURE AND FORESTRY, BOARD OF.

[**A-14**] An Act to Amend Section 176 and Section 202 of the Revised Laws of Hawaii 1935, Relating to Duties of the Board of Commissioners of Agriculture and Forestry.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 176** of the Revised Laws of Hawaii 1935, is hereby amended by adding the word "and" after the word "compile" in the second line of said section and by deleting the words "furnish and publish" in the second and third lines of said section.

Section 2. **Section 202** of said Revised Laws is hereby

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amended by adding the word “and” after the word “compile” in the second line of said section and by deleting the words “furnish and publish” in the second line of said section.

Section 3. This Act shall take effect upon its approval.

(Approved May 13, 1941.) **S.B. 182, Act 228.**

**CHAPTER 8. ANIMALS,
 BRANDS AND POUNDS.**

FENCES.

[A-15] An Act Amending Section 276 of the Revised Laws of Hawaii 1935, Relating to Lawful Fences, and Providing Penalties for Certain Violations.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 276 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“**Sec. 276. Lawful fence.** Every fence shall be deemed a lawful fence which shall be made of stone, posts and rails, posts and boards, posts and wire, or other suitable materials, provided it be not less than four and a half feet in height, substantially built, strong and close, existing in good state of repair and capable of turning either all stock, or all stock excepting swine, attempting to pass through such fence.

Woven wire, or what is otherwise known also as hog-wire, used as a type of wire by itself or with a combination of barbed wire or plain wire, in any case of which, when supported on posts and properly fastened thereto, and meeting the minimum height and stock turning requirements prescribed hereinabove in this section, shall be a lawful fence.

The sea, rivers, ponds and natural perpendicular bluffs, whenever impassable, shall be lawful fences.

Whenever fences are desired to be built on any boundary, or within the exterior boundaries of any privately owned land or lot, to keep animals confined to certain areas, or to keep farms protected against the trespass of animals, except on the boundary of any government road, it shall be deemed lawful to have fence wire electrically charged, provided such wire is fastened to insulators supported on posts, and provided also that the charge supplied shall be through an approved electric

fence controller which shall be labeled or listed as conforming to the standards of either the National Bureau of Standards, the Underwriter's Laboratories, Inc., or any other similar institutions of recognized standing, and provided also that an electric fence controller intended for use in the Territory of Hawaii shall bear a recognized commercial trade name and the name of the selling agency of same.

Any person who shall construct or maintain an electrically charged fence not conforming to the requirements of this section shall be guilty of a misdemeanor, punishable, upon conviction, by a fine of not more than five hundred dollars, or imprisonment for not more than one year, or both such fine and imprisonment." [L. 1907, c. 125, s. 10; R. L. 1935, s. 276; am. L. 1941, c. 284, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1941.) **H.B. 507, Act 284.**

CHAPTER 9. BIRDS AND DEER; GAME BIRD FARMING.

BIRDS.

[A-16] An Act to Amend Chapter 9 of the Revised Laws of Hawaii 1935, as Amended, by Inserting Therein a New Section to Be Designated Section 303A, Making the Killing or Detaining of Homing Pigeons a Misdemeanor, and Providing a Penalty Therefor.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 9 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by inserting therein a new section, to be designated Section 303A, which shall read as follows:

"**Sec. 303A.** Any person, other than the owner thereof, who shoots, maims, kills or detains any Antwerp, Messenger or Homing pigeon is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than twenty-five dollars (\$25.00), or by imprisonment of not more than fifty days."

Section 2. This Act shall take effect upon its approval.

(Approved April 18, 1941.) **S.B. 225, Act 44.**

**CHAPTER 11. FISH AND FISHING,
GENERAL.**

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FISHING WITH SPEAR, NON-CITIZEN.

[A-17] An Act Amending Section 368 of the Revised Laws of Hawaii 1935, Relating to Certain Restrictions on Fishing by Non-Citizens.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 368** of the Revised Laws of Hawaii 1935, is hereby amended by changing the period at the end of the first sentence thereof to a comma and adding thereafter the following:

“or to take, kill or pursue any fish, turtle or squid in any area within one geographical mile seaward of high water mark by means of a hukilau, gill or purse net.”

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1941.) **H.B. 297, Act 279.**

FISHING IN HONOLULU HARBOR AND WAIKIKI CANAL.

[A-18] An Act to Amend Section 383 of the Revised Laws of Hawaii 1935, Relating to the Taking or Killing of Fish by Net.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 383 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“**Sec. 383. Taking of by net prohibited.** The taking or killing of fish by means of any draw, drag or seine net in the waters of the harbor of Honolulu is prohibited or, except for commercial fishermen taking bait fish, or persons using their catch solely for home consumption, the taking or killing of fish by means of any draw, drag or seine net in the waters of that portion of the bay of Hilo bounded by the breakwater, a line from the outer end of the breakwater to Alealea Point and the shore line from Alealea Point to the inshore end of the breakwater, is prohibited. Any person who shall violate the provision of this section shall, upon conviction, be punished by a fine of not more than two hundred and fifty dollars or by imprisonment for not more than six months, or by both fine and imprisonment.” [L. 1911, c. 38, s. 1; R. L. 1935, s. 383; am. L. 1941, c. 223, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1941.) **S.B. 49, Act 223.**

Title III. ATTORNEY
 GENERAL.

(HIGH SHERIFF AND TERRITORIAL POLICE.)

**CHAPTER 14. HIGH SHERIFF
 AND TERRITORIAL POLICE.**

[A-19] An Act Amending Section 516 of the Revised Laws of Hawaii 1935, Relating to the Appointment and Removal by the High Sheriff of Police Officers and Their Pay, and Requiring Such High Sheriff Specially to Deputize Persons to Make Service of Process on Islands Where no Serving Officer Resides.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 516** of the Revised Laws of Hawaii 1935, is hereby amended by adding thereto an additional paragraph reading as follows:

“Whenever any process shall issue out of any court of the territory to be served on any island within the jurisdiction of said court where no serving officer is located, it shall be the duty of the high sheriff specially to deputize, subject to the approval of the attorney general, some suitable person on such island to make such service and a return thereon, and the actual expenses incurred in connection with such appointment and service, together with the serving officer’s fee, shall be paid as costs by the party desiring such service.”

Section 2. This Act shall take effect upon its approval.

(Approved April 23, 1941.) **H.B. 169, Act 91.**

Title IV. AUDIT OF PUBLIC ACCOUNTS.

CHAPTER 15. AUDIT DEPARTMENT; DUTIES.

AUDITOR, DEPUTIES, DUTIES.

[A-20] An Act to Amend Chapter 15 of the Revised Laws of Hawaii 1935, as Amended, by Adding a New Section Thereto, Numbered Section 554-A, to Provide for a Second Deputy Auditor, His Appointment, Removal, Duties, Oath and Bond.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 15 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding a new section thereto, to be numbered section 554-A, to read as follows:

“Sec. 554-A. Second deputy; appointment; duties. The auditor may appoint and remove, subject to the provisions of the civil service Act, a second deputy who shall act under the direction of the auditor and shall perform such duties as the auditor may, from time to time, prescribe and require.

The second deputy shall take the oath of office required of public officers and, before entering upon his duties, shall file a bond duly approved by the auditor and conditioned upon the faithful performance of the duties of his office.”

Section 2. This Act shall take effect upon its approval.

(Approved May 1, 1941.) **S.B. 74, Act 138.**

PUBLIC ACCOUNTANTS.

[A-21] An Act to Amend Chapter 15 of the Revised Laws of Hawaii 1935, as Amended, by Adding a New Section Thereto, Numbered Section 563-A, to Provide for a System of Reporting Certain Moneys Collected or Received by Territorial Departments, Boards, Bureaus, Commissions or Agencies and Authorizing the Auditor of the Territory of Hawaii to Prescribe Rules and Regulations Therefor.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 15 of the Revised Laws of Hawaii 1935,

as amended, is hereby further amended by adding a new section thereto, numbered section 563-A, to read as follows:

“Sec. 563-A. Report of certain special moneys; forms; regulations. All territorial officers, departments, boards, bureaus, commissions or agencies collecting or receiving any moneys not required by law to be deposited in the territorial treasury shall report to the auditor of the Territory all such receipts and disbursements on account thereof not later than the tenth day of each month on such forms and under such rules and regulations as may be prescribed by the territorial auditor.”

Section 2. This Act shall take effect upon July 1, 1941.

(Approved May 13, 1941.) **S.B. 71, Act 224.**

[A-22] An Act to Amend Chapter 15 of the Revised Laws of Hawaii 1935, as Amended, by Adding a New Section Thereto, Numbered Section 563-B, to Provide for the Establishment of Petty Cash Funds and Authorizing the Auditor of the Territory to Prescribe Rules and Regulations for the Proper Administration and Accountability Thereof.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 15 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding a new section thereto, numbered section 563-B, to read as follows:

“Sec. 563-B. Petty cash funds; regulations. Whenever the head of any territorial department, board, bureau, commission or agency shall deem it necessary to have a petty cash fund for the proper transaction of the business of such department, board, bureau, commission or agency, he shall make written application therefor to the auditor of the Territory setting forth the details covering the purposes and uses of and for such fund. The auditor, before issuing a territorial warrant for such purpose, shall determine whether or not the business of such department, board, bureau, commission or agency warrants the establishment of such a fund, and if he is satisfied that such fund is necessary, he shall issue a territorial warrant to such department, board, bureau, commission or agency for such an amount as he shall determine, not to exceed, however, the sum of two hundred dollars.

AUDIT DEPARTMENT.

SERIES A-22.—ACT 137]

SERIES A-23.—ACT 189]

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The auditor is hereby authorized to prescribe such rules and regulations as he may deem necessary for the proper administration and accountability of such funds."

Section 2. This Act shall take effect upon its approval.

(Approved May 1, 1941.) **S.B. 73, Act 137.**

FORMS.

[A-23] An Act to Amend Section 596 of the Revised Laws of Hawaii 1935, as Amended by Act 106 of the Session Laws of Hawaii 1937, Relating to the Form of Accounting to the Auditor of Moneys Collected by the Various Departments of the Territorial Government and Deposited With the Territorial Treasurer, so as to Provide for a New Form.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 596 of the Revised Laws of Hawaii 1935, as amended by Act 106 of the Session Laws of Hawaii 1937, is hereby further amended to read as follows:

"Sec. 596. Account of money collected.

Territory of Hawaii

SCHEDULE OF COLLECTIONS AND DEPOSITS

with the

Treasurer, Territory of Hawaii

By.....

Department

..... Fund Month 19....

	COLLECTIONS	DEPOSITS		Balance on Hand	RECAPITULATION OF DEPOSITS BY SOURCES			For Auditor's Use Only
Date	Amount	Treasurer's Receipt No.	Amount		Symbol	Total Amount		
						This Month	This Fiscal Year to Date	

TOTALS

I do solemnly swear that the above is a true and faithful account of all moneys collected by me and deposited with the Treasurer of the Territory as above specified.

.....
Public Accountant.

Subscribed and sworn to before me

this.....day of....., 19....

.....

Instructions: Prepare in duplicate by carbon process, by use of typewriter, send ORIGINAL to Auditor's office not later than the 5th of each month. Prepare separate schedule for each fund.

.....”

[L. 1898, c. 39, sch. E; am. L. 1927, c. 219, s. 15; R. L. 1935, s. 596; am. L. 1937, c. 106, s. 1; am. L. 1941, c. 189, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 9, 1941.) **S.B. 72, Act 189.**

[A-24] An Act to Amend Section 597 of the Revised Laws of Hawaii 1935, Relating to the Audit of Public Accounts and the Count of Moneys and Securities in the Territorial Treasury.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 597 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“Sec. 597. Count of money and securities in treasury. The tax commissioner, the director of the bureau of the budget and the auditor shall, on the last day of March, June, September and December of each year, and at such other times as they deem proper, count the money and securities in the territorial treasury and prepare, in triplicate, statements showing:

1. The amount of money that ought to be in the treasury;
2. The amount and kind of money actually therein;
3. The amount of securities owned by the Territory that ought to be in the treasury;
4. The amount of securities owned by the Territory actually in the treasury;

5. The amount of depository securities that ought to be in the treasury;

6. The amount of depository securities actually in the treasury." [L. 1927, c. 219, pt. of s. 16; R. L. 1935, s. 597; am. L. 1941, c. 86, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 23, 1941.) **S.B. 156, Act 86.**

CHAPTER 16. DISPOSAL OF TERRITORIAL PERSONAL PROPERTY.

[A-25] An Act to Amend Chapter 16 of the Revised Laws of Hawaii 1935, Relating to Disposal of Territorial Personal Property, by Substituting the Director of the Bureau of the Budget for the Auditor of the Territory as a Member of the Board of Disposal.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 16 of the Revised Laws of Hawaii 1935, is hereby amended in the following respects:

(a) By amending **section 611** thereof by substituting for the word "auditor" appearing in the fourth line of said section the words "director of the bureau of the budget".

(b) By amending **section 614** thereof by substituting for the word "auditor" appearing in the second line of said section the words "director of the bureau of the budget".

(c) By amending **section 615** thereof by substituting for the word "auditor" appearing in the first line of said section the words "director of the bureau of the budget".

Section 2. This Act shall take effect upon its approval.

(Approved April 29, 1941.) **S.B. 456, Act 127.**

CHAPTER 17. INVENTORIES OF GOVERNMENT ASSETS.

[A-26] An Act to Amend Chapter 17 of the Revised Laws of Hawaii 1935, by Adding Thereto a New Section Relating to Inventories of Personal Property Purchased With City and County or County Funds, in the Circuit Courts and Public Schools.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 17 of the Revised Laws of Hawaii 1935, is hereby amended by adding thereto a new section, numbered 622.1, to read as follows:

“Sec. 622.1. By clerks of court and supervising principals to supervisors. It shall be the duty: (a) of the chief clerk of any circuit court within any county or within the City and County of Honolulu to prepare and file with the board of supervisors thereof a sworn return of inventory in the form required of county and city and county officers by section 622, setting forth in detail the information required as to county or city and county property with respect to each item of personal property in the possession or control of such circuit court which was purchased with funds furnished by such county or by the city and county; and (b) of the supervising principal of the public schools of any area in any county or within the City and County of Honolulu to prepare or caused to be prepared and filed with the board of supervisors thereof a return or inventory, sworn to either by himself or by any agent of the department of public instruction authorized by it so to do, setting forth the information hereinabove required as to county or city and county property with respect to each item of personal property in each of the public schools in such county or in the city and county or area which were purchased with funds furnished by such county or by the city and county.

Sections 623 to 626 inclusive, to the extent to which the same may be practicably applied, are hereby made applicable to the inventories and officers and other persons mentioned in this section.”

Section 2. This Act shall take effect upon its approval.

(Approved April 21, 1941.) **H.B. 101, Act 67.**

CHAPTER 18. BUDGET BUREAU.

[A-27] An Act Amending Section 636 of the Revised Laws of Hawaii 1935, as Amended, Relating to the Contents and Transmission of the Budget to the Legislature.

Be It Enacted by the Legislature of the Territory of Hawaii: A 27
1941

Section 1. **Section 636** of the Revised Laws of Hawaii 1935, as amended by Act 115, Series A-21, of the Session Laws of Hawaii 1937, and by Act 134, Series A-12, of the Session Laws of Hawaii 1939, is hereby further amended by inserting a comma after the word "period" at the end of the clause thereof numbered "(a)" and the following:

"together with the detailed estimates originally submitted to the director pursuant to the first sentence of section 634, as amended by Act 134, Series A-12, of the Session Laws of Hawaii 1939."

Section 2. This Act shall take effect upon its approval.

(Approved April 21, 1941.) **H.B. 104, Act 57.**

[A-28] An Act Amending Act 134 of the Session Laws of Hawaii 1939, Relating to the Territorial Budget, by Deleting Therefrom the Amendment of Section 637 of the Revised Laws of Hawaii 1935.

Be It Enacted by the Legislature of the Territory of Hawaii.

Section 1. Act 134, Series A-12, of the Session Laws of Hawaii 1939, is hereby amended by deleting therefrom subsection (e) of section 1 thereof purporting to amend **section 637** of the Revised Laws of Hawaii 1935.

Section 2. This Act shall take effect upon its approval.

(Approved April 18, 1941.) **H.B. 183, Act 42.**

Title V.

EDUCATION.

CHAPTER 19. ADMINISTRATION
AND DEPARTMENT OF PUBLIC INSTRUCTION.

OFFICERS, AGENTS, TEACHERS, SERVANTS.

[A-29] An Act Authorizing the Department of Public Instruction to Permit Teachers Serving in Schools on the Coffee Schedule to Attend Summer School.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 712-F.] Section 1. [Leaves of teachers coffee schedule.] The commissioners and superintendent of public instruction are authorized to arrange for the attendance at summer school of not more than 20% of the teachers serving in schools which are on the coffee schedule, provided that each such teacher can be replaced with a satisfactory substitute. The salary of said substitute teacher shall be paid out of the appropriation, salaries for substitute teachers.

Section 2. Act 193, Series A-22 of the Session Laws of Hawaii 1937, is hereby repealed. [Sections 712-D and 712-E.]

Section 3. This Act shall take effect upon September 1, 1941.

(Approved May 21, 1941.) H.B. 522, Act 327.

[A-30] An Act Amending Chapter 19 of the Revised Laws of Hawaii 1935, Relating to Education, by Adding Thereto a New Section to be Numbered Section 714-A, Relating to Demotion of Teachers.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 19 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section, to be numbered section 714-A, reading as follows:

“Sec. 714-A. Teachers; demotion. If any person having a certificate from the department to teach in any of the public schools of the Territory, who has been legally employed for a period of twenty-five or more years in the service of the

department and has less than ten years remaining to qualify for retirement shall, without his written request or consent, be demoted to any position paying less than the position from which demoted, his salary shall not be reduced, any salary or classification schedule to the contrary notwithstanding.”

Section 2. This Act shall take effect upon its approval.

(Approved May 16, 1941.) **S.B. 164, Act 264.**

CHAPTER 20. MAINTENANCE OF PUBLIC SCHOOLS.

[A-31] An Act to Amend Sections 770 and 771 of the Revised Laws of Hawaii 1935, as Amended, Relating to Salaries in, and Funds for the Maintenance of, Public Schools.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 770 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“**Sec. 770. Salaries.** The department of public instruction shall submit to the bureau of the budget estimates for salaries, together with all other items of the department’s budget in accordance with the general provisions of section 634. The salary of any teacher who has successfully passed an examination for, and been appointed to, a principalship shall not be less than that which was being paid to such teacher immediately prior to such appointment.” [L. 1911, c. 88, s. 1; am. L. 1917, c. 114, s. 1; am. L. 1919, c. 107, s. 1; am. L. 1921, c. 245, s. 1; am. L. 1923, c. 205, s. 1; am. L. 1925, c. 232, s. 1; am. L. 1927, c. 248, s. 1; am. L. 1929, c. 105, s. 1; am. L. 1932, 2d, c. 57, s. 1; R. L. 1935, s. 770; am. L. 1941, c. 197, s. 1.]

Section 2. Section 771 of said Revised Laws, as amended in toto by Act 144, series A-26, of the Session Laws of Hawaii 1937, is hereby amended to read as follows:

“**Sec. 771. School budget, general fund.** The salaries of the superintendent, teachers, office force and all other employees of the department of public instruction, and all items of general expense, including books, materials, supplies and equipment, shall be included in the departmental estimate in such form and detail as the director of the bureau of the budget

shall require, together with such statistical and supporting data as he may request." [L. 1911, c. 88, s. 2; am. L. 1913, c. 48, s. 1; am. L. 1932, 2d, c. 57, s. 2; R. L. 1935, s. 771; am. L. 1937, c. 144, s. 1; am. L. 1941, c. 197, s. 2.]

Section 3. Any automatic appropriation which may heretofore have been made or authorized by or pursuant to said section 770 prior to its amendment by this Act shall be ineffective and void as to any salaries to accrue on or after July 1, 1941, and such salaries shall be paid thenceforth out of biennial appropriations to be made by the legislature.

Section 4. This Act shall take effect upon its approval.

(Approved May 10, 1941.) **S.B. 226, Act 197.**

CHAPTER 22. LIBRARY OF HAWAII: COUNTY LIBRARIES.

COUNTY LIBRARIES.

[A-32] An Act to Change the Names of Certain Public Libraries in the County of Hawaii.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 804 A.] Section 1. [Hawaii county libraries, names of.] The public libraries now being operated and maintained in Hilo, district of South Hilo, and in Kohala, North Kohala, county of Hawaii, under the names of "Hilo Public Library" and "Kohala Public Library" shall hereafter be designated and known as "Hawaii County Library", and "The Bond Memorial Library", respectively.

Section 2. [Appropriations.] All appropriations of public money hereafter made for the support and maintenance of said libraries and, from and after July 1, 1941, all the business and operations of said libraries shall be made and carried on under the names of "Hawaii County Library" and "The Bond Memorial Library", respectively.

Section 3. This Act shall take effect on its approval.

(Approved April 18, 1941.) **S.B. 33, Act 48.**

CHAPTER 23. UNIVERSITY OF HAWAII.

[A-33] An Act to Amend Sections 821 and 824 of the Revised Laws of Hawaii 1935, as Amended, Relating to the Regents of the University of Hawaii.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 821 of the Revised Laws of Hawaii 1935, as amended by Act 72 of the Session Laws of Hawaii 1935, is hereby further amended to read as follows:

"Sec. 821. Regents; appointment; tenure; qualifications. The affairs of the university shall be under the general management and control of the board of regents consisting of nine members, of whom eight shall be appointed and may be removed by the governor in the manner prescribed by section 80 of the Organic Act and one shall be the superintendent of public instruction, ex officio. At least one member shall be a graduate of the university. Except as otherwise provided by statute, territorial officers shall be eligible to appointment and membership. One of the members shall be appointed for a term to expire April 30, 1942, one for a term to expire April 30, 1943, two for terms to expire April 30, 1944, two for terms to expire April 30, 1945, and two for terms to expire April 30, 1946; thereafter every appointment shall be for a term of five years, commencing from the date of the expiration of the preceding term. Any vacancy occurring before the expiration of a term shall be filled for the unexpired term. The board shall, on July 1st of each year, elect from its membership a chairman, vice-chairman and secretary who shall serve for the ensuing year and whose election shall be immediately certified by the board to the secretary of the Territory. The president of the university shall act as the executive officer of the board, but shall not be appointed to or act as a member thereof." [L. 1919, c. 203, s. 2; R. L. 1935, s. 821; am. L. 1935, c. 72, s. 1; am. L. 1941, c. 196, s. 1.]

Section 2. Section 824 of the Revised Laws of Hawaii 1935, is hereby amended by amending the first sentence thereof to read as follows:

"The faculties of the university shall be under the direction of a president who shall be appointed by the board of regents."

Section 3. The present members of the board of regents, appointed by the governor, shall continue in office until the expiration of their present respective terms unless vacancies

sooner occur by reason of resignation, death or other cause, which vacancies shall be filled for the unexpired terms. Such members shall be deemed to be members required to be appointed and appointed under this Act for terms to expire on the respective dates of the expiration of their present respective terms.

Section 4. This Act shall take effect upon its approval.

(Approved May 10, 1941.) **S.B. 87, Act 196.**

Title VI. PUBLIC HEALTH.

CHAPTER 24. BOARD OF HEALTH.

[A-34] An Act to Amend Section 900-C of the Revised Laws of Hawaii 1935, as Enacted by Act 122 of the Session Laws of Hawaii 1937, Relating to Meetings of the Board of Health.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 900-C** of the Revised Laws of Hawaii 1935, as enacted by Act 122 of the Session Laws of Hawaii 1937, is hereby amended by changing the period at the end of the second sentence of said section to a semicolon, and by adding after said semicolon the following:
“provided, however, that the board may hold one of such monthly meetings in each calendar year on each of the islands of Hawaii, Maui and Kauai.”

Section 2. This Act shall take effect upon its approval.

(Approved April 10, 1941.) **S.B. 355, Act 16.**

[A-35] An Act to Amend Section 904 of the Revised Laws of Hawaii 1935, as Amended by Act 122 (Series A-32) and Act 197 (Series A-33) of the Session Laws of Hawaii 1937, Relating to the Seal, Rules and Regulations of the Board of Health.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 904 of the Revised Laws of Hawaii 1935, as amended by Act 122 (Series A-32) and Act 197 (Series

A-33) of the Session Laws of Hawaii 1937, is hereby further amended to read as follows:

"Section 904. Seal, rules and regulations. The board may adopt a seal and may adopt such rules and regulations as it may consider expedient for the conduct of its business. The board may amend or revise such rules and regulations from time to time. The board, with the approval of the governor, may make such regulations respecting nuisances, foul or noxious odors, gases or vapors, water in which mosquito larvae breed, sources of filth, causes of sickness or disease, within the respective districts of the territory, and on board of any vessel; as also respecting adulteration and misbranding of food or drugs; location, air space, ventilation, sanitation, drainage and sewage disposal of buildings, courts, areas and alleys; privy vaults and cesspools; fish and fishing; interments and dead bodies; disinterments of dead human bodies, including the exposing, disturbing or removing of such bodies from their place of burial or the opening, removing or disturbing after due interment of any receptacle, coffin or container holding human remains or a dead human body or a part thereof and the issuance and terms of permits for the aforesaid disinterments of dead human bodies; cemeteries and burying grounds; laundries, stables, bakeries, poi shops, abbatoirs, fish, meat or vegetable stores or markets, hotels, lodging houses, tenements, hospitals, children's boarding homes, maternity homes, convalescent homes, laboratories, or any place or building where noisome or noxious trades or manufactures are carried on, or intended to be carried on; milk; poisonous drugs; pig and duck ranches; as it shall deem necessary for the public health and safety." [P. C. 1869, c. 59, ss. 4-6; am. L. 1905, c. 42, s. 1; am. L. 1911, c. 132, s. 2; am. L. 1913, c. 63, s. 1; am. L. 1919, c. 235, s. 1; R. L. 1935, s. 904; am. L. 1937, c. 122, s. 4; am. L. 1937, c. 197, s. 1; am. L. 1941, c. 18, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 11, 1941.) **H.B. 200, Act 18.**

[A-36] An Act Relating to the Public Health and Safety ; Conferring Certain Powers and Imposing Certain Duties Upon the Board of Health With Respect to the Regulation of Midwives, Laboratory Technicians, Physiotherapists, Chiropodists, and Itinerant Vendors of Medicines or Drugs or Devices ; and Imposing Penalties for Violations Thereof or of Rules and Regulations Prescribed Thereunder.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 904A.] Section 1. Rules and regulations. The board of health, with the approval of the governor, shall have power to prescribe such rules or regulations as it shall deem necessary for the public health or safety respecting (1) the occupations or practices of midwives, laboratory technicians, physiotherapists, chiropodists, and itinerant vendors of medicines or drugs or devices ; (2) the health, education, training, experience, habits, qualifications or character of persons to whom certificates of registration or permits for such occupations or practices may be issued ; (3) the health, habits, character, practices, standards or conduct of persons holding such certificates or permits ; or (4) the grounds or causes for revoking or suspending such certificates or permits. Such rules or regulations shall have the force and effect of law.

[Sec. 904B.] Section 2. Certificates or permits. It shall be unlawful for any person to engage in or attempt to engage in or to follow any of the occupations or practices referred to in section 1 of this Act, unless he shall first obtain and hold a valid unrevoked certificate of registration or permit under such rules or regulations as the board of health shall prescribe.

[Sec. 904C.] Section 3. Revocation of certificates or permits. The board of health may revoke any certificate of registration or permit issued under the provisions of this Act or heretofore issued upon proof to its satisfaction of a violation of any rule or regulation of the board on the part of any person holding a certificate or permit, provided, however, that no such certificate or permit shall be revoked except upon due notice to the person holding the same and he shall be given an opportunity to be heard and present evidence in his own defense.

[Sec. 904D.] Section 4. Penalties. Any person who shall violate any provision of this Act or any rule or regulation prescribed by the board of health under this Act shall be guilty of

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a misdemeanor, and, upon conviction thereof, shall be punished by a fine not to exceed two hundred dollars.

Section 5. This Act shall take effect upon its approval.

(Approved April 23, 1941.) **S.B. 256, Act 87.**

EXCHANGE OF PERSONNEL.

[A-37] An Act to Amend Chapter 24 of the Revised Laws of Hawaii 1935, as Amended, by Adding Thereto Two New Sections to be Numbered and Known as Sections 906-A and 906-B, Relating to the Exchange of Personnel of the Board of Health for Personnel of the Health Department of Any State or Territory of the United States or County or Municipality of Any Such State or Territory; and Conferring Certain Powers Upon the Board of Health in Respect Thereto.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 24 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended in the following respects:

(a) By adding a new section thereto, to be numbered and known as section 906-A, and to read as follows: *Amended Act 30, Series A-37, Act 83*

“**Sec. 906-A. Definitions.** Wherever used in this section or section 906-B, unless the text clearly otherwise indicates:

(1) ‘Hawaii personnel’ means public health nurses, sanitary officers, and medical officers.

(2) ‘State’ means any state or another territory of the United States, or county or municipality of any such state or territory.

(3) ‘Health department’ means the board of health, department of health, commissioner of public health or other public authority authorized by law to administer or administering the public health laws of any state.”

(b) By adding a new section thereto, to be numbered and known as section 906-B, and to read as follows:

“**Sec. 906-B. Exchange of Hawaii personnel.** The board of health is hereby authorized to contract with any state, or the health department of any state having the power to so contract, for the exchange of Hawaii personnel for personnel of the health department of any such state. Any such exchange shall be made under rules and regulations prescribed

by the board of health with the approval of the governor, in no case shall be for a period exceeding one year, and in all cases shall be subject to the following provisions:

(1) That each person exchanged by the health department of any state shall possess qualifications equal to the qualifications of the person exchanged for him from Hawaii.

(2) That the person exchanged from Hawaii shall have served for not less than three years prior to beginning of the exchange period in the Hawaii personnel.

(3) That in the selection of Hawaii personnel for exchange, preference shall be given to persons born in the Territory.

(4) That each person exchanged by the health department of any state shall hold in the health department of such state a position the same as or equivalent to the position held by the person exchanged for him from Hawaii.

(5) That the person exchanged from Hawaii shall be paid his regular salary out of the funds appropriated therefor, but nothing in addition thereto.

(6) That the Territory shall not pay any traveling or other expenses of the Hawaii personnel or of the personnel of the health department of any state coming to Hawaii under any such contract of exchange. This prohibition shall be construed to include all travel, transportation, board, lodging or other such expenses incidental to or arising out of any such exchange.

(7) That the Territory shall not pay any compensation to the person coming to Hawaii under any such contract of exchange; provided, however, that in any case where the person so exchanged from Hawaii becomes incapacitated, or, for any reason, leaves the exchange position permanently, the board of health may pay the visiting exchange person an amount not to exceed the salary rating of the person so exchanged from Hawaii, such an arrangement to continue until the end of the period of exchange or until such time as some adjustment satisfactory to the board of health is made.

(8) That any provision of law to the contrary notwithstanding, the territorial requirements in respect to civil service, citizenship or residence shall not apply to any person coming to Hawaii under any such contract of exchange.

(9) That section 102 shall not apply to Hawaii personnel exchanged under this section.

The board of health, with the approval of the governor, is hereby authorized to make such rules and regulations as it

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may deem necessary concerning the powers, rights, functions, conduct, duties and liabilities of, exercised by or imposed upon any person coming to Hawaii under any such contract of exchange."

Section 2. This Act shall take effect on July 1, 1941.

(Approved April 23, 1941.) **S.B. 145, Act 83.**

CHAPTER 29. DENTAL HYGIENISTS.

[A-38] An Act to Amend Chapter 29 of the Revised Laws of Hawaii 1935, Relating to Dental Hygienists.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 29 of the Revised Laws of Hawaii 1935, is hereby amended, by substituting for the word "employing", in the sixth line of **section 1000** thereof, the word "requiring".

Section 2. Chapter 29 of the Revised Laws of Hawaii 1935, is hereby further amended, by substituting for the words "one year", in the sixth line of **section 1004** thereof, the words "two years".

Section 3. This Act shall take effect upon its approval.

(Approved March 28, 1941.) **S.B. 137, Act 6.**

**CHAPTER 32. FEEBLE-MINDED:
WAIMANO HOME.**

[Secs. 1030, 1031, 1037, 1038, 1039, 1041, amended by Act 5, infra pages 317 to 318.]

CHAPTER 33. FOOD AND DRUGS.***HAWAII FOOD, DRUG AND COSMETIC LAW.**

[A-39] An Act to Prohibit the Manufacture and Sale of and Traffic in Adulterated or Misbranded Food, Drugs, Devices, and Cosmetics; to Prohibit the Adulteration and Misbranding of Food, Drugs, Devices, and Cosmetics, and the False Advertisement and Guaranteeing Thereof; Defining Adulterated Food, Drugs, Devices and Cosmetics; Providing What Constitutes Misbranded Food, Drugs, Devices and Cosmetics; Providing for Permits for Food Establishments in Emergencies; Regulating the Sale of New Drugs; Providing for Uniformity With the Federal Food, Drug and Cosmetic Act; Providing for the Appointment of a Food Commissioner and Conferring Certain Powers and Imposing Certain Duties Upon Him; Conferring Certain Powers and Imposing Certain Duties Upon the Board of Health; Providing for the Enforcement of This Act; Authorizing Certain Injunctive Relief to Restrain Violations of This Act; Providing for the Detention or Embargo of Food, Drugs, Devices and Cosmetics Suspected of Being in Violation of This Act, and for the Destruction of Such Articles in Violation of This Act; Providing Penalties for the Violation of This Act; Repealing Sections 1050 to 1062 Inclusive of the Revised Laws of Hawaii 1935; and for Other Purposes.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 1050.01.] Section 1. [Title.] This Act may be cited as the Hawaii Food, Drug and Cosmetic Act.

[Sec. 1050.02.] Section 2. [Definitions.] For the purposes of this Act—

(a) The term “board” means the board of health of the Territory of Hawaii.

(b) The term “commissioner” means the food commissioner as hereinafter provided for.

(c) The term “food” means (1) articles used for food or drink for man or animals, (2) chewing gum, and (3) articles used for components of any such article.

(d) The term “drug” means (1) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) articles in-

* [Secs. 1050–1062 repealed by section 26 of this Act.]

tended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (3) articles (other than food) intended to affect the structure or any function of the body of man or animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

(e) The term "device" (except when used in paragraph (k) of this section and in section 3 (j), 7 (f), 11 (c) and 14 (c)) means instruments, apparatus and contrivances, including their components, parts and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; or (2) to affect the structure or any function of the body of man or animals.

(f) The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and (2) articles intended for use as a component of any such articles, except that such term shall not include soap, intended for cleansing purposes only.

(g) The term "official compendium" means the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them.

(h) The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this Act that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

(i) The term "immediate container" does not include package liners.

(j) The term "labeling" means all labels and other written, printed or graphic matter (1) upon an article or any of its containers or wrappers, or (2) accompanying such article.

(k) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to

which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

(l) The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.

(m) The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

(n) The term "new drug" means (1) any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or (2) any drug the composition of which is such that such drug, as a result of investigation to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

(o) The term "contaminated with filth" applies to any food, drug, device or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

(p) The provisions of this Act regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article; and the supplying or applying of any such article in the conduct of any food, drug or cosmetic establishment.

(q) The term "Federal Act" means the Federal Food, Drug and Cosmetic Act (Title 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.).

[Sec. 1050.03.] Section 3. [Prohibited acts.] The following acts and the causing thereof within the Territory by any person are hereby prohibited:

(a) The manufacture, sale, or delivery, holding or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic.

(c) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

(d) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of section 8 or 12.

(e) The dissemination of any false advertisement.

(f) The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by sections 18, 20, 21 or 22.

(g) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the Territory from whom he received in good faith the food, drug, device, or cosmetic.

(h) The removal or disposal of a detained or embargoed article in violation of section 22.

(i) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device or cosmetic, if such act is done while such article is held for sale and results in such article being misbranded.

(j) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations prescribed under the provisions of this Act.

(k) The using, on the labeling of any drug or in any advertisement relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under section 12, or that such drug complies with the provisions of such section.

(l) The using by any person to his own advantage, or revealing other than to the board or its officers or employees, or to the courts when relevant in any judicial proceeding under this Act, any information acquired under authority of sections 8, 12, or 20, concerning any method or process which as a trade secret is entitled to protection.

[Sec. 1050.04.] Section 4. [Remedies for violation of law.] In addition to the remedies hereinafter provided the commissioner is hereby authorized to apply to a circuit judge sitting

in equity for, and such judge shall have jurisdiction upon hearing and for cause shown, to grant, a temporary or permanent injunction restraining any person from violating any provision of section 3; irrespective of whether or not there exists an adequate remedy at law.

[Sec. 1050.05.] Section 5. **[Regulations to be prescribed.]** Whenever in the judgment of the board such action will promote honesty and fair dealing in the interest of consumers, the board shall prescribe regulations fixing and establishing for any food or class of food a reasonable definition and standard of identity, or reasonable standard of quality or fill of container. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the board shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. The definitions and standards so prescribed shall conform so far as practicable to the definitions and standards promulgated under authority of the Federal Act.

[Sec. 1050.06.] Section 6. **[Foods deemed to be adulterated when.]** A food shall be deemed to be adulterated—

(a) (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or (2) if it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of section 9; or (3) if it consists in whole or in part of a diseased, contaminated, filthy, putrid or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been produced, prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome or injurious to health; or (5) if it is the product of a diseased animal or an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse; or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(b) (1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner;

or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is.

(c) If it is confectionery and it bears or contains any alcohol or non-nutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of 1 per centum, harmless natural gum, and pectin; provided, that this paragraph shall not apply to any confectionery by reason of its containing less than one-half of 1 per centum by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless non-nutritive masticatory substances.

(d) If it bears or contains a coal-tar color other than one from a batch which has been certified under authority of the Federal Act.

[Sec. 1050.07.] Section 7. [Foods deemed misbranded when.] A food shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If it is offered for sale under the name of another food.

(c) If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

(d) If its container is so made, formed, or filled as to be misleading.

(e) If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the board.

(f) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(g) If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 5, unless (1) it

conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, in so far as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

(h) If it purports to be or is represented as—

(1) A food for which a standard of quality has been prescribed by regulations as provided by section 5 and its quality falls below such standard unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or (2) a food for which a standard or standards of fill of container have been prescribed by regulation as provided by section 5, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

(i) If it is not subject to the provisions of paragraph (g) of this section, unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; provided, that, to the extent that compliance with the requirements of clause (2) of this paragraph is impractical or results in deception or unfair competition, exemptions shall be established by regulations prescribed by the board; and, provided, further, that the requirements of said clause (2) shall not apply to food products which are packaged at the direction of purchasers at retail at the time of sale, the ingredients of which are disclosed to the purchasers by other means in accordance with regulations prescribed by the board.

(j) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the board determines to be, and by regulations prescribed, as necessary in order to fully inform purchasers as to its value for such uses.

(k) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations prescribed by the board; and, provided, further, that the provisions of this paragraph and paragraphs (g) and (i) of this section with respect

to artificial coloring shall not apply in the case of butter, cheese, or ice cream.

[**Sec. 1050.08.**] Section 8. [**Regulations governing manufacturers, processing and packers.**] (a) Whenever the board finds after investigation that the distribution in the Territory of any class of food may, by reason of contamination with micro-organisms during manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered commerce, it then, and in such case only, shall prescribe regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing or packing of such class of food, for such temporary period of time, as may be necessary to protect the public health; and after the effective date of such regulations, and during such temporary period, no person shall introduce or deliver for introduction into commerce any such food manufactured, processed, or packed by any such manufacturer, processor, or packer unless such manufacturer, processor, or packer holds a permit issued by the board as provided by such regulations.

(b) The board is authorized to suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of such permit, and the board shall, immediately after prompt hearing and an inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued, or as amended.

(c) Any officer or employee duly designated by the board shall have access to any factory or establishment, the operator of which holds a permit from the board for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator.

[**Sec. 1050.09.**] Section 9. [**Adding of poisonous or deleterious substances, regulation of.**] Any poisonous or deleterious substance added to any food except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe for purposes of the application of clause (2) of section 6 (a); but when such

substance is so required or cannot be so avoided, the board shall prescribe regulations limiting the quantity therein or thereon to such extent as the board finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for purposes of the application of clause (2) of section 6 (a). While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) section 6 (a). In determining the quantity of such added substance to be tolerated in or on different articles of food, the board shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

[Sec. 1050.10.] Section 10. **[Drugs or devices deemed adulterated when.]** A drug or device shall be deemed to be adulterated—

(a) (1) If it consists in whole or in part of any filthy, putrid or decomposed substance; or (2) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or (3) if it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or (4) if it is a drug and it bears or contains, for purposes of coloring only, a coal-tar color other than one from a batch certified under the authority of the Federal Act.

(b) If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. Such determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, or in the absence of or inadequacy of such tests or methods of assay, these prescribed under authority of the Federal Act. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United

States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States it shall be subject to the requirements of the United States Pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States and not those of the United States Pharmacopoeia.

(c) If it is not subject to the provisions of paragraph (b) of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

(d) If it is a drug and any substance has been (1) mixed or packed therewith so as to reduce its quality or strength; or (2) substituted wholly or in part therefor.

[Sec. 1050.11.] Section 11. **[Drugs or devices deemed misbranded when.]** A drug or device shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the board.

(c) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha eucaine, barbituric acid, betaeucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyete, or sulphonmethane; or any chemical derivative of such substance, which derivative has been by the board after investigation found to be, and by regulations under this Act, designated as, habit-forming; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—May Be Habit-Forming".

(e) If it is a drug and is not designated solely by a name

recognized in an official compendium, unless its label bears (1) the common or usual name of the drug, if such there be; and (2), in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscyne, **hyoscyamine**, arsenic, digitalis, digitalis glucosines, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein; provided, that to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, exemptions shall be established by regulations prescribed by the board.

(f) Unless its labeling bears (1) adequate directions for use; and (2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods of duration of administration or application, in such manner and form, as are necessary for the protection of users; provided, that where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the board shall prescribe regulations exempting such drug or device from such requirements.

(g) If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein; provided, that the method of packing may be modified with the consent of the board. Whenever a drug is recognized in both the United States Pharmacopoeia and Homeopathic Pharmacopoeia of the United States, it shall be subject to the requirements of the United States Pharmacopoeia with respect to packaging and labeling, unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States, and not those of the United States Pharmacopoeia.

(h) If it has been found by the board to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the board shall by regulations require as necessary for the protection of public health. No such regulation shall be established for any drug recognized in an official compendium until the board shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements.

(i) (1) If it is a drug and its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug.

(j) If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

(k) If it is a drug sold at retail for use by man, and contains any quantity of aminopyrine, barbituric acid, cinchophen, dinitrophenol, or sulfanilamide, or their derivatives, or any other drug which has been found by the board to be dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof, and so designated by the board in a regulation adopted; unless it is sold on a written prescription signed by a member of the medical, osteopathic, dental or veterinary profession who is licensed by law to administer such drug, and its label bears the name and place of business of the seller, the serial number and date of such prescription, and the name of such member of the medical, osteopathic, dental or veterinary profession.

(l) A drug sold on a written prescription signed by a member of the medical, osteopathic, dental or veterinary profession (except a drug sold in the course of the conduct of a business of selling drugs pursuant to diagnosis by mail) shall be exempt from the requirements of this section if—

(1) such member of the medical, osteopathic, dental or veterinary profession is licensed by law to administer such drug, and

(2) such drug bears a label containing the name and place of business of the seller, the serial number and date of such prescription, and the name of such member of the medical, osteopathic, dental or veterinary profession.

[Sec. 1050.12.] Section 12. [New drugs, regulation of sale, etc.] (a) No person shall sell, deliver, offer for sale, hold for sale or give away any new drug unless (1) an application with respect thereto has become effective under section 505 of the Federal Act, or (2) when not subject to the Federal Act, unless such drug has been tested and has not been found to be unsafe for use under the conditions prescribed, recommended or suggested in the labeling thereof, and prior to selling or offering for sale such drug, there has been filed with the board an application setting forth (a) full reports of investigations which have been made to show whether or not such drug is safe for use; (b) a full list of the articles used as components of such drug; (c) a full statement of the composition of such drug; (d) a full description of the

methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (e) such samples of such drug and of the articles used as components thereof as the board may require; and (f) specimens of the labeling proposed to be used for such drug.

(b) An application provided for in subsection (a) (2) shall become effective on the 60th day after the filing thereof, except that if the board finds after due notice to the applicant and giving him an opportunity for a hearing, that the drug is not safe for use under the conditions prescribed, recommended or suggested in the proposed labeling thereof, it shall, prior to the effective date of the application, issue an order refusing to permit the application to become effective.

(c) This section shall not apply—

(1) to a drug intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety in drugs, provided the drug is plainly labeled "For investigational use only"; or

(2) to a drug sold in the Territory at any time prior to the enactment of this Act or introduced into inter-state commerce at any time prior to the enactment of the Federal Act; or

(3) to any drug which is licensed under the virus, serum, and toxin Act of July 1, 1902 (U.S.C. 1934 ed. Title 42, Chap. 4).

(d) An order refusing to permit an application under this section to become effective may be revoked by the board.

[Sec. 1050.13.] Section 13. [Cosmetics deemed adulterated when.] A cosmetic shall be deemed to be adulterated—

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling or advertisement thereof, or under such conditions of use as are customary or usual; provided, that this provision shall not apply to coal-tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness", and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (e) the term "hair dye" shall not include eyelash dyes or eyebrow dyes.

(b) If it consists in whole or in part of any filthy, putrid, or decomposed substance.

(c) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

(d) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(e) If it is not a hair dye and it bears or contains a coal-tar color other than one from a batch which has been certified under authority of the Federal Act.

[Sec. 1050.14.] Section 14. [Cosmetics deemed misbranded when.] A cosmetic shall be deemed to be misbranded—

(a) If its labeling is false or misleading in any particular.

(b) If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the board.

(c) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If its container is so made, formed, or filled as to be misleading.

[Sec. 1050.15.] Section 15. [False advertising; exceptions.]

(a) An advertisement of a food, drug, device, or cosmetic shall be deemed to be false if it is false or misleading in any particular.

(b) For the purpose of this Act the advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis, (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors, typhoid, uremia, venereal disease, shall also be deemed to be false, except that no advertisement not

in violation of subsection (a) shall be deemed to be false under this subsection if it is disseminated only to members of the medical, osteopathic, dental, or veterinary professions, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public-health education by persons not commercially interested, directly or indirectly, in the sale of such drugs or devices; provided, that whenever the board determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the board shall by regulation authorize the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the board may deem necessary in the interests of public health; provided, that this subsection shall not be construed as indicating that self-medication for diseases other than those named herein is safe or efficacious.

[Sec. 1050.16.] Section 16. **[Rules and regulations, approval of Governor.]** (a) The board shall have the power, with the approval of the governor, to adopt, prescribe and enforce such rules or regulations as it may deem necessary for the efficient enforcement of this Act. The board is hereby authorized to make the rules or regulations prescribed under this Act conform in so far as practicable with those promulgated under the Federal Act.

(b) Hearings authorized or required by this Act shall be conducted by the board or such officer, agent, or employee as the board may designate for the purpose.

(c) Before prescribing any regulation contemplated by section 5; 7 (j); 8; 11 (d), (f), (g), (h) and (k); or 15 (b), the board shall give appropriate notice of the proposal and of the time and place for a hearing. The regulation so prescribed shall, after being approved by the governor, become effective upon publication as provided by law. Such a regulation may be amended or repealed in the same manner as is provided for its adoption, except that in the case of a regulation amending or repealing any such regulation the board, to such an extent as it deems necessary in order to prevent undue hardship, may disregard the foregoing provisions regarding notice or hearing.

[Sec. 1050.17.] Section 17. **[Food commissioner, deputies, appointment of.]** In order to assist in carrying out the provisions of this Act, the board shall appoint a duly qualified food commissioner or analyst, who shall receive such salary as the legislature shall from time to time appropriate, and who shall furnish a good and sufficient bond of not less than two thousand dollars for the proper and unprejudiced performance of

his duties, and who shall be provided by the board with the necessary apparatus, together with a proper office and laboratory for work. The board may also appoint deputy commissioners or analysts.

[Sec. 1050.18.] Section 18. [Duties of commissioner.] It shall be the duty of the commissioner to inquire carefully into the quality of any food, drug, device, or cosmetic manufactured, sold, or kept or exhibited or offered for sale by any person; and he may in a lawful manner procure samples thereof, submit the same to careful examination, and report the result of such analysis of all or any such food, drugs, devices, or cosmetics as are adulterated, impure or unwholesome, in contravention of the laws of the Territory, to the board; and it shall be the duty of the commissioner to make complaint with the necessary evidence through the proper authorities, against such person; provided, however, that nothing in this Act shall be construed as requiring the commissioner to report for the institution of proceedings under this Act, minor violations of this Act, whenever he believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

The commissioner shall investigate complaints on the information of any person who shall lay before him satisfactory evidence of the same.

[Sec. 1050.19.] Section 19. [Deputy commissioners' duties.] The deputy commissioners or analysts shall perform such duties as the commissioner or analyst or the board may from time to time prescribe.

[Sec. 1050.20.] Section 20. [Inspection powers of commissioner.] The commissioner or any of his deputies shall have free access at all reasonable hours to any factory, warehouse, or establishment in which food, drugs, devices or cosmetics are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such food, drugs, devices or cosmetics in commerce, for the purpose:

(1) of inspecting such factory, warehouse, establishment, or vehicle to determine if any of the provisions of this Act are being violated, and

(2) to secure samples or specimens of any food, drug, device or cosmetic after paying or offering to pay for such sample. It shall be the duty of the commissioner to make or cause to be made examinations of samples secured under the provisions of this section to determine whether or not any provision of this Act is being violated.

[Sec. 1050.21.] Section 21. **[Furnishing of samples to commissioner required.]** If any person manufacturing, keeping for sale, exhibiting for sale, or offering for sale any food, drug, device, or cosmetic included in the provisions of this Act, shall refuse to furnish the duly appointed commissioner, or any of his deputies, upon demand, either personal or in writing, a sample sufficient for the analysis of such food, drug, device, or cosmetic, which is in his possession, the commissioner or any of his deputies tendering the market price therefor, such refusal shall be prima facie evidence that such food, drug, device, or cosmetic so manufactured, kept for sale, exhibited for sale, or offered for sale is adulterated within the meaning of this subtitle.

[Sec. 1050.22.] Section 22. **[Additional powers and duties of commissioner.]** (a) The commissioner or any of his deputies shall have the power in the performance of their duties to enter at all reasonable hours into any creamery, factory, restaurant, store, salesroom, storage-room, drug store or laboratory, or any place where they have probable cause to believe that food, drugs, devices, or cosmetics are made, prepared, sold, or kept, exhibited or offered for sale, and to open any cask, tub, bottle, case or package containing or supposed to contain any such food, drug, device, or cosmetic, and examine or cause to be examined the contents thereof. In case any food, drug, device, or cosmetic is found to be adulterated or misbranded within the meaning of this Act and the owner or person in charge thereof refuses to comply with the instructions of the commissioner or any of his deputies for the proper disposal thereof, such food, drug, device, or cosmetic shall be liable to seizure. The commissioner or any of his deputies shall affix to such article or articles a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded, and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by the commissioner or any of his deputies or by the court or judge having jurisdiction over such matters. Upon the request of the commissioner or any of his deputies, made to such court, the court shall order and direct that such food, drug, device, or cosmetic be seized and delivered into the custody of the court, and the same shall be held in such custody until a hearing has been held to determine as to whether or not it is adulterated or misbranded.

(b) If the court finds that a detained or embargoed article is adulterated or misbranded, such article shall, after entry of the decree be destroyed at the expense of the claimant thereof,

under the supervision of the commissioner or any of his deputies; and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or his agent; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of the commissioner or any of his deputies. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article on representation to the court by the commissioner or any of his deputies that the article is no longer in violation of this Act, and that the expenses of such supervision have been paid.

(c) Whenever the commissioner or any of his deputies shall find in any room, building, vehicle of transportation or other structure, any meat, seafood, poultry, vegetable, fruit or other perishable articles which are unsound, or contain any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the same being hereby declared to be a nuisance, the commissioner or any of his deputies, shall forthwith condemn or destroy the same, or in any other manner render the same unsalable as human food.

[Sec. 1050.23.] Section 23. [Reports of commissioner.] The commissioner shall make a monthly report in writing to the board containing the results of inspection and analysis in detail, and upon request of the board he shall furnish for publication a popular explanation of the same covering any month or period, together with any such other information as may come to him in his official capacity relating to the adulteration of food, drugs, devices, or cosmetics, so far as the same may be deemed by the board to be of benefit and advantage to the public.

[Sec. 1050.24.] Section 24. [Duties of county attorneys, public prosecutor.] It shall be the duty of each county attorney, or the public prosecutor of the city and county of Honolulu, to whom the board, or the commissioner or any of his deputies reports any violation of this Act, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before any violation of this Act is reported to any such attorney or

prosecutor for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the board or the commissioner either orally or in writing, in person or by attorney, with regard to such contemplated proceeding.

[Sec. 1050.25.] Section 25. **[Violations; penalty.]** (a) Any person who violates any of the provisions of section 3 shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding two hundred, nor less than ten dollars, or imprisoned not exceeding one hundred nor less than thirty days, or both.

(b) No person shall be subject to the penalties of subsection (a) of this section, for having violated section 3 (a) or (c) if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the Territory from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this Act, designating this Act.

(c) No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dissemination by him of such false advertisement, unless he has refused, on the request of the board to furnish the board the name and post office address of the manufacturer, packer, distributor, seller or advertising agency, residing in the Territory who caused him to disseminate such advertisement.

Section 26. **Sections 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1061 and 1062 of the Revised Laws of Hawaii 1935, are hereby repealed.**

Section 27. **[Saving clause.]** If any section, sentence, clause or phrase of this Act, or its application to any person or circumstance is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances shall not be affected. The legislature hereby declares that it would have passed this Act, and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 28. This Act shall take effect upon its approval.

(Approved May 21, 1941.) **S.B. 233, Act 318.**

CHAPTER 34. INFECTIOUS DISEASES.

SPECIAL FUND FOR CONTROL.

[A-40] An Act to Provide a Special Fund for the Board of Health for Controlling, Suppressing, or Preventing the Spread of Any Communicable or Preventable Disease in the Territory of Hawaii; Making an Appropriation Therefor; and Conferring Certain Powers Upon the Said Board of Health.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 1094A.] Section 1. **Epidemic control fund.** For the purpose of controlling, suppressing, or preventing the spread of any communicable or preventable disease in the Territory of Hawaii or in any county thereof, the sum of fifteen thousand dollars (\$15,000.00) is hereby appropriated from the general revenues of the Territory, to be immediately deposited in the treasury in a special fund to be known as the "epidemic control fund".

[Sec. 1094B.] Section 2. **Expenditures from.** Whenever the territorial commissioner of public health shall certify that any communicable or preventable disease is present to such an extent that the usual facilities and personnel of the board of health are not adequate to properly control, suppress, or prevent the spread of such diseases, withdrawals may be made from the epidemic control fund by the board of health, with the approval of the governor, for use, in whatever manner the board may deem necessary, in controlling, suppressing or preventing the spread of any such disease. All such withdrawals shall be upon warrants of the auditor of the Territory on vouchers properly approved by the territorial commissioner of public health.

Section 3. This Act shall take effect upon its approval.

(Approved April 29, 1941.) **S.B. 217, Act 121.**

QUARANTINE.

[A-41] An Act to Amend Sections 1095 and 1096 of the Revised Laws of Hawaii 1935, Relating to Removal and Quarantine, and Quarantine Without Removal of Persons Infected or Suspected of Being Infected With Any Infectious, Communicable or Other Disease Dangerous to the Public Health; Providing for the Payment of the Expenses Thereof; and Requiring Certain Police Officers to Aid and Assist in Such Removals.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1095 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 1095. Removal and quarantine. When any person shall be infected or suspected of being infected with any infectious, communicable or other disease dangerous to the public health, the board or its agent, may, for the safety of the public, remove such sick or infected person to a separate house or hospital, and provide him with medical care and other necessities, which shall be at the expense of the person himself, his parents or guardian, if able to meet such expense, otherwise at the expense of the county in which the person is ill or infected. The board of supervisors of any such county is hereby authorized and directed to pay such expenses upon certification by the board of health or its agent that a person has been so removed and that expense has been incurred under this section." P. C. 1869, c. 59, s. 26; am. L. 1911, c. 125, s. 4; R. L. 1935, s. 1095; am. L. 1941, c. 262, s. 1.]

Section 2. Section 1096 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 1096. Quarantine without removal; duty of police officers to assist in removals. If the board or its agent should determine that removal of the person infected or suspected of being infected would directly and seriously aggravate the disease so as to endanger his life, the board, or its agent may make provision for him, as directed in the last preceding section, in the house in which he may be; and, in such case, they may cause the persons in the neighborhood to be removed, and may take such other measures as they shall judge necessary for the public health and safety. The board or its agent, in effecting any removal under this or section 1095 may require any sheriff, deputy sheriff, chief of police, or police officer to aid and assist it, and such force as is reasonably necessary to effect any such removal may be used.

It shall be the duty of every sheriff, deputy sheriff, chief of police or police officer who is so required to aid and assist the board or its agent to immediately aid and assist it." [P. C. 1869, c. 59, s. 27; R. L. 1935, s. 1096; am. L. 1941, c. 262, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved May 16, 1941.) **S.B. 149, Act 262.**

CHAPTER 36. LEPERS; HOSPITALS AND SETTLEMENT.

[A-42] An Act to Amend Chapter 36 of the Revised Laws of Hawaii 1935, by Adding Thereto a New Section to be Numbered and Known as Section 1144-A, Relating to the Removal From the Settlement at Kalaupapa of Sick or Injured Officers or Employees of the Board of Hospitals and Settlement and the Expense Thereof.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 36 of the Revised Laws of Hawaii 1935 is hereby amended by adding thereto a new section to be numbered and known as section 1144-A and to read as follows:

"Sec. 1144-A. Officers and employees; sickness and accident; expense. In case any officer or employee of the board becomes ill or is injured at the settlement at Kalaupapa and, in the opinion of the board or its agents, suitable medical, hospital, nursing or other services or facilities are not there available, the board may incur and pay the reasonable and necessary expenses of removing and transporting any such officer or employee to such place within the Territory as such hospital facilities or treatment can be secured."

Section 2. This Act shall take effect upon its approval.

(Approved April 25, 1941.) **S.B. 437, Act 108.**

NON-LEPROUS CHILDREN OF LEPERS.

[A-43] An Act to Amend Section 1173 of the Revised Laws of Hawaii 1935, Relating to Non-leprous Children Born to Parents One or Both of Whom are Leprous, to Permit the Adoption of Such Children.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 1173** of the Revised Laws of Hawaii 1935 is hereby amended:

A. By changing the period at the end of the first paragraph thereof to a semi-colon and adding thereafter the following:

"and provided, further, that the board may allow any suitable person to adopt any non-leprous child; but if one or both of such child's parents are living, the board shall first secure his or their written consent. Any non-leprous child, whether he resides with his non-leprous parent or with a suitable family or person, or with his adopted parent or parents shall be subject to medical examination from time to time as the board may deem necessary."

B. By adding at the end of the second paragraph thereof the following:

"This paragraph shall not apply to any such minor permitted to reside with his non-leprous parent, or who has been adopted and is residing with his adopted parent or parents."

Section 2. This Act shall take effect upon its approval.

(Approved April 23, 1941.) S.B. 243, Act 84.

CHAPTER 39.

MEDICINE AND SURGERY.

LICENSES.

[A-44] An Act to Amend Sections 1203 and 1208 of the Revised Laws of Hawaii 1935, as Amended by Act 183 of the Session Laws of Hawaii 1939, Relating to the Practice of Medicine and Surgery.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 1203** (a) of the Revised Laws of Hawaii 1935, as amended by Act 183 of the Session Laws of Hawaii 1939, is hereby further amended to read as follows:

"(a) is a citizen of the United States, or, if not a citizen of the United States, had, on the effective date of Act 183 of the Session Laws of Hawaii 1939, been a bona fide resident of the territory for a period of ten (10) years, and who, on said date, was attending or had graduated from a recognized medical school or college approved by the American Medical Association."

[See Act 181, following this Act, also amending Sec. 1203.]

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Section 2. **Section 1208** of the Revised Laws of Hawaii 1935, as amended, is hereby further amended in the following particulars:

(a) By renumbering subsection 10 as subsection 11.

(b) By adding a new subsection to be numbered 10, which shall read as follows:

“10. Procuring a license through fraud, misrepresentation, or deceit.”

Section 3. This Act shall take effect upon its approval.

(Approved March 21, 1941.) **H.B. 18, Act 4.**

[A-45] An Act to Amend Section 1203 of the Revised Laws of Hawaii 1935, Relating to Qualifications for Examinations Before Board of Medical Examiners.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 1203** of the Revised Laws of Hawaii 1935, as amended in toto by Act 183, Series A-25, of the Session Laws of Hawaii 1939, is hereby further amended by adding at the end thereof the following new paragraph:

“The governor, upon the recommendation of the board of medical examiners, where in their opinion a public emergency precludes obtaining an adequate number of physicians or surgeons who have the residence qualifications required by this section, may waive said residential requirement in each instance during the period of emergency.”

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1941.) **H.B. 483, Act 181.**

CHAPTER 41. MENTAL DISEASES: TERRITORIAL HOSPITAL.

[A-46] An Act to Amend Sections 1236, 1237, 1237.1, 1239, 1240, 1246 and 1247 of the Revised Laws of Hawaii 1935, as Amended or Enacted by Act 203 (Series D-175) of the Session Laws of Hawaii 1939, and to Amend Section 1265.1 of the Revised Laws of Hawaii 1935, as Enacted by Act 257 (Series A-26) of the Session Laws of Hawaii 1939, Relating to Insane Persons, Indicted Persons Pleading Insanity, Drug and Liquor Addicts and the Mentally Ill.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 1236** of the Revised Laws of Hawaii 1935, as amended by Act 203 (Series D-175) of the Session Laws of Hawaii 1939, is hereby further amended in the following respects:

1. By amending the first paragraph thereof to read as follows:

“Any person alleged to be insane, and who is not in confinement on a criminal charge, may be committed to the hospital upon an order made by any district magistrate or circuit judge, adjudging such person to be insane, and made pursuant to an application for such order.”

2. After “or any public welfare officer,” appearing in line six of the second paragraph thereof, by inserting the following:

“or any officer of the Territory or a political subdivision thereof, or any physician,”.

Section 2. **Section 1237** of the Revised Laws of Hawaii 1935, as amended by Act 203 (Series D-175) of the Session Laws of Hawaii 1939, is hereby further amended by deleting said section commencing with the eighteenth line thereof and inserting in lieu of the same the following:

“or brother or sister of such alleged insane person, if there be any such relative known to be within the Territory where the proceeding is pending, and, if not, upon a person in the said Territory with whom he is known to permanently reside or live, and, if there be no such person or persons, such service may be dispensed with altogether.”

Section 3. **Section 1237.1** of the Revised Laws of Hawaii 1935, as amended by Act 203 (Series D-175) of the Session

Laws of Hawaii 1939, is hereby further amended in the following respects:

1. By amending the first sentence of the first paragraph thereof to read as follows:

“The magistrate or judge to whom such application is made shall, if no written demand is made for a hearing by or on behalf of the alleged insane person, proceed forthwith to determine the question of insanity, and, if satisfied from all the statements contained in the verified application and certificate that the alleged person is insane, shall immediately issue an order of commitment of such person to the hospital.”;

2. By amending the first line of the second paragraph thereof to read as follows:

“However, upon the written demand of such alleged person, or of”.

Section 4. Section 1239 of the Revised Laws of Hawaii 1935, as amended by Act 203 (Series D-175) of the Session Laws of Hawaii 1939, is hereby further amended to read as follows:

“Sec. 1239. Confinement in county detention ward; temporary commitment thereto. Any person apparently insane, and conducting himself in a manner which in a sane person would be disorderly, may be taken into custody by any police officer or any officer or employee of the Territory, or a political subdivision thereof whose duties concern the preservation of law, health or the care and treatment of mental illness, and confined in the county detention ward for observation and examination as to his mental condition.

It shall be the duty of any government physician to whom a report is made, by a person eligible to make application for an order of commitment under section 1236, that a person in said physician's district is apparently insane, and it shall be lawful for any other duly licensed physician to whom such report is made, to forthwith examine such apparently insane person. If in his opinion such person is in immediate need of care and treatment or observation and examination for the purpose of ascertaining his mental condition, or if such person resists or refuses to submit to such examination, such physician shall make a certificate to that effect, and as soon thereafter as practicable such physician or person eligible as aforesaid shall apply to the district magistrate of the district in which such apparently insane person is found or the judge of the circuit in which such district is situated and a warrant shall issue authorizing and directing the county sheriff or deputy or chief of police or any officer or employee of the Territory

or political subdivision thereof whose duties concern the preservation of law, health or the care and treatment of mental illness, to take such apparently insane person into custody, and he may be confined in the county detention ward for observation and examination as to his mental condition.

Unless an application for an order of commitment as provided in section 1236, or an application for an order of temporary commitment for observation and examination, is made prior to the expiration of 48 hours (Sundays and holidays excluded) from the time any written demand for release is made by him or any other person on his behalf, such person so confined shall be entitled to be released.

An application for an order of temporary commitment may be made by the physician in charge of such ward and shall be accompanied by his certificate, and thereupon the magistrate or judge, if satisfied from all the statements contained in the application and the certificate that such person is in immediate need of care and treatment or observation and examination for the purpose of ascertaining his mental condition, may commit such apparently insane person temporarily to any such ward for an indefinite period, not to exceed 30 days, for care and treatment or observation and examination as to his mental condition. Unless during such period of temporary commitment, an application for an order of commitment of such apparently insane person to the hospital is made pursuant to section 1236, or such person is otherwise admitted to the hospital, he shall be entitled to be released. Nothing in this section contained shall be deemed to prohibit the filing at any time of an application for commitment pursuant to section 1236, or the admission to the hospital of such apparently insane person in any other manner provided by this chapter, or the discharge of the person so confined at any time when in the opinion of the physician in charge of such ward such person is not insane or not in need of further care or treatment or observation and examination. The expenses of any such temporary commitment and detention shall be paid by the county of which such apparently insane person is a resident if not otherwise paid by him or on his behalf." [L. 1925, c. 114, s. 10; R. L. 1935, s. 1239; am. L. 1939, c. 203, pt. of s. 4; am. L. 1941, c. 325, s. 4.]

Section 5. **Section 1240** of the Revised Laws of Hawaii 1935 as amended by Act 203 (Series D-175) of the Session Laws of Hawaii 1939, is hereby further amended by amending the eleventh line of said section to read as follows: "shall not be detained therein more than thirty days after he, or any rela-".

[Sec. 1241 amended by Act 278, *infra*, page 74.]

Section 6. **Section 1246** of the Revised Laws of Hawaii 1935, as amended by Act 203 (Series D-175) of the Session Laws of Hawaii 1939, is hereby further amended by amending line ten thereof to read as follows:

“hospital or the director of the bureau of mental hygiene and by two additional unbiased physicians who in the opinion”.

Section 7. **Section 1247** of the Revised Laws of Hawaii 1935, as amended by Act 203 (Series D-175) of the Session Laws of Hawaii 1939, is hereby further amended in the following respects:

(a) By amending lines 4, 5 and 6 in the first paragraph thereof to read as follows:

“upon an order made by any district magistrate of any district in the circuit where such person may be, or the circuit judge of said circuit, adjudging such person to be an addict as afore-”;

(b) By deleting that part of the second paragraph commencing with the 26th line thereof and inserting in lieu of same the following:

“mitment. When any such application shall be filed, the magistrate or judge shall set a date for hearing thereon and shall cause notice of such application and date for hearing to be personally served upon such person. At the hearing it shall be the duty of the magistrate or judge to examine any such person and such person shall have the right to be heard personally or by counsel, and to produce and have subpoenaed witnesses on his behalf. However, if from any such certificate or certificates it shall appear that there is danger to himself or to others in such person's continuing to be at large, or if it shall appear from any application filed unaccompanied by any certificate, wherein good cause appears why a certificate has not been obtained (which application unaccompanied by any certificate is hereby authorized), that such danger exists, or if it shall otherwise appear necessary, the magistrate or judge may issue a warrant authorizing and directing the county sheriff or deputy or chief of police or any officer or employee of the Territory or political subdivision thereof whose duties concern the preservation of law, health or the care and treatment of mental illness, to take such person into custody, and he may be confined in the county detention ward or such other place as the magistrate or judge may direct for observation and examination subject to all applicable provisions of section 1239, or until a hearing as aforesaid may be had.”

Section 8. **Section 1265.1** of the Revised Laws of Hawaii 1935, as enacted by Act 257 (Series A-26) of the Session Laws of Hawaii 1939, is hereby amended by adding to the end of subsection (4) thereof the following:

“When any in-patient mental hygiene clinic is conducted, any person who is admitted thereto for examination, study, diagnosis and treatment may be detained therein until he is discharged, or until he is committed or admitted to the territorial hospital as in chapter 41 provided; but when any such person so admitted for examination, study, diagnosis and treatment, or any other person on his behalf, shall object to his detention therein and shall make written demand on the director for his release, he shall be released unless in the opinion of the director he is insane, and in any event he shall be released after such demand unless within 48 hours (Sundays and holidays excluded) from the time of receipt of such demand an application has been made by the director for an order of commitment to the territorial hospital, or an order of temporary commitment to a county detention ward as in chapter 41 provided or to the mental hygiene clinic as the magistrate or judge may decide.”

Section 9. This Act shall take effect upon its approval.

(Approved May 21, 1941.) **S.B. 526, Act 325.**

[A-47] An Act Amending Section 1241 of the Revised Laws of Hawaii 1935, Relating to the Conveying of Patients to the Territorial Hospital and Providing an Appropriation Therefor.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1241 of the Revised Laws of Hawaii, as amended by Act 203, Series D-175, of the Session Laws of Hawaii 1939, is hereby further amended to read as follows:

“**Sec. 1241. Conveying patients to hospital.** The judge or magistrate by whom any person is committed to the hospital may appoint a proper person to convey the patient to the hospital. If the patient be a woman the committing judge or magistrate must, unless she is accompanied by her father, husband, brother or son, appoint a woman of reputable character and mature age to accompany her thereto.

Where the patient is committed elsewhere than on the Island of Oahu, the cost of conveying him to the emergency hospital in Honolulu, together with the proper expenses of the person accompanying him, shall be borne by the county from which he is committed.

It shall be the duty of the department of institutions to convey from the emergency hospital all such persons delivered thereto as aforesaid to the territorial hospital, and to convey from whatever point where they may be to the territorial hospital all persons committed thereto on the Island of Oahu." [L. 1925, c. 114, s. 12; R. L. 1935, s. 1241; am. L. 1939, c. 203, pt. of s. 4; am. L. 1941, c. 278, s. 1.]

Section 2. For the purpose of carrying out the provisions of this Act, there is hereby appropriated the sum of forty-five hundred dollars (\$4,500.00) out of the moneys available in the treasury of the Territory of Hawaii for the 1941-1943 biennium, to be expended upon vouchers approved by the director of institutions.

Section 3. This Act shall take effect on and after July 1, 1941.

(Approved May 19, 1941.) **H.B. 138, Act 278.**

CHAPTER 46. OPTOMETRY.

[A-48] An Act Amending Chapter 46 of the Revised Laws of Hawaii 1935, Relating to Optometry.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 46 of the Revised Laws of Hawaii 1935, is hereby amended in the following respects:

(a) By amending section 1372 thereof to read as follows:

"Sec. 1372. Organization; meetings; rules and regulations. The members of the board shall qualify by taking oath of office before a notary public, or other officer empowered to administer oaths. At the first meeting of the board after each annual appointment, the board shall elect a president, vice-president and secretary-treasurer. Examinations shall be held by the board at least once a year with such additional examinations as the board desires to hold. The time and place of any examination shall be fixed by the board at least 30

days prior to the date that it is to be held. One examination shall be held during the third week of July of each year. The board shall prescribe rules, regulations and by-laws, in harmony with the provisions of this chapter, for its own proceedings and government and for the examination of applicants for the practice of optometry. Such rules and regulations shall be published and furnished free of charge to and for the use and convenience of applicants for examinations; provided, however, that no examination of applicants shall be held except by the full board." [L. 1917, c. 187, s. 3; R. L. 1935, s. 1372; am. L. 1941, c. 195, pt. of s. 1.]

(b) By amending section 1374 thereof to read as follows:

"Sec. 1374. Examination; certificate of registration; certificate of exemption. Every person desiring to commence or to continue the practice of optometry shall, except as hereinafter provided, upon presentation of satisfactory evidence, verified by oath, that he is more than 21 years of age, is a citizen of the United States, has been a resident of the territory for at least one year, and has a preliminary education equivalent to at least two years in a public high school, take an examination before said board of examiners in optometry upon complying with the following requirements:

Applications for examination shall be made out and filed in writing with the secretary of the board and each such application shall be accompanied by a fee of twenty dollars, which shall be retained by the board.

Each applicant shall file, in writing, with the secretary at least sixty days prior to the date selected by the board for such examination, the following credentials:

1. A diploma or certificate of graduation from an American optometric college or school recognized and approved by the board;

2. A certificate that the applicant is of good moral character. Certificates of good moral character for applicants who are licensed in some other state of the United States shall bear the signatures and seals of the secretary of the board of optometric examiners, and the secretary of the state optometric association of that state;

3. A recent unmounted photograph of the applicant.

Every candidate who shall pass an examination satisfactory to the board, shall be registered as possessing the qualifications required by this chapter, and shall receive from said board a proper certificate of such registration, provided however, that any person who shall submit to said board of examiners in optometry satisfactory proof as to his character, competency

and qualifications and that he has been engaged in the practice of optometry in the territory before April 1, 1941, shall receive from said board of examiners in optometry a certificate of exemption from such examination, which certificate shall be registered and entitle him to practice optometry. Every person entitled to a certificate of exemption as herein provided, must make application therefor and present the evidence to entitle him thereto on or before October 1, 1941, or he shall be deemed to have waived his right to such certificate. Before any certificate is issued it shall be numbered and recorded in a book kept by the secretary of the board of examiners in optometry, and on forms prepared by said board, accompanied by the necessary fee. Such applicants shall be given due notice of the date and place of examination. In case any applicant, because of his failure to pass examination, be refused a license, he or she shall within a year be permitted to take a second examination without additional fee. The fee for issuing a certificate of exemption shall be \$1.00.

Each registered optometrist shall pay an annual license fee of \$1.00 between the first day of January and the first day of February of each year to the treasurer of the board of examiners for a renewal of his registration certificate." [L. 1917, c. 187, s. 5; R. L. 1935, s. 1374; am. L. 1941, c. 195, pt. of s. 1.]

(c) By adding at the end of **section 1378** thereof the following:

"4. Advertising at a stipulated price, or any variation of such a price or as being free, any of the following:

The examination or treatment of the eyes, the furnishing of optometric services; or the furnishing of a lens, lenses, glasses, or the frames or fittings thereof.

5. Directly or indirectly accepting employment to practice optometry from any person not having a valid, unrevoked certificate of registration as an optometrist or from any company or corporation."

Section 2. This Act shall take effect upon its approval.

(Approved May 9, 1941.) **H.B. 316, Act 195.**

**CHAPTER 50 A. RATS,
 SUPPRESSION OF.**

[A-49] An Act to Repeal Act 8 of the Session Laws of Hawaii 1937, Relating to the Suppression of Rats.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 8 of the Session Laws of Hawaii 1937 is hereby repealed, and all of the unexpended moneys thereby appropriated are hereby lapsed into the general fund of the Territory. [Sections 1444 to 1447 in Session Laws of Hawaii 1937 repealed.]

Section 2. This Act shall take effect upon its approval.

(Approved April 29, 1941.) **S.B. 215, Act 120.**

**CHAPTER 53. VITAL STATISTICS:
 BIRTHS, DEATHS, MARRIAGES.**

[A-50] An Act to Amend Sections 1480 and 1493 of the Revised Laws of Hawaii 1935, Relating to Records, Record Books, Certificates, Reports and Other Documents of Births, Deaths and Marriages, and the Inspection Thereof by the Public.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1480 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“Sec. 1480. Records; inspection; certificates; charges. Except as the board may otherwise provide under section 1493, all records by this chapter directed to be kept shall, during business hours, be open to the inspection of the public. If the board shall, by rule or regulation prescribed under section 1493, close such records to the inspection by the public, then, upon request, the board or registrar general shall furnish to any person requesting information a certificate as to the existence or non-existence of any record of the birth, death or

marriage of any person and if a record exists, permit any person making the request to examine such record. No charge shall be made for any such certificate, but if a search of the records is made, fees shall be charged as in section 1484 provided. The certificate shall be prima facie evidence in any court of the fact or facts therein contained. [L. 1896, c. 50, s. 18; R. L. 1935, s. 1480; am. L. 1941, c. 45, s. 1.]

Section 2. Section 1493 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“Sec. 1493. Regulations by board. The board shall have the full supervision of the carrying out of this chapter, and shall have the right to direct any or all of the registrars or other officers in this chapter provided for to keep other records and statistics than those in this chapter provided for; and shall also have the right and authority to make all rules and regulations which, in the discretion of the board, are necessary for more effectually securing the registration of full and accurate information concerning births, deaths and marriages. The board may also make reasonable rules and regulations with reference to the custody, preservation, and disposition, and the use, inspection, examination and publicity of the records, record books, certificates and other documents by this chapter or by the board directed to be kept, and of copies thereof, as it may deem necessary for the preservation and protection of such records, record books, certificates and other documents, and the copies thereof, or as it may deem proper and in the public interest; provided, however, that no rule or regulation shall in anywise affect the issuing and furnishing of certified copies and other certificates as provided for in this chapter. Such rules and regulations shall, after approval by the governor, have the force and effect of and shall be law.” [L. 1896, c. 50, s. 11; R. L. 1935, s. 1493; am. L. 1941, c. 45, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved April 18, 1941.) **S.B. 356, Act 45.**

Title VII. PUBLIC LANDS.

CHAPTER 54 A. PUBLIC BUILDING SITES.

[A-51] An Act Authorizing the Commissioner of Public Lands to Lease Public Building Sites When Not in Use.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Title VII of the Revised Laws of Hawaii 1935 is hereby amended by adding thereto a new chapter to be numbered 54A to be headed "Public Building Sites" consisting of one section to be numbered 1655, to read as follows:

"Chapter 54A. Public Building Sites.

Sec. 1655. Leases. Lands of the Territory, together with the improvements thereon, held as public building sites and not constituting public lands within the meaning of section 73 of the Hawaiian Organic Act, when not in use may be leased by the commissioner of public lands, by and with the authority of the governor, with or without public auction, upon such terms and conditions as the commissioner, with the approval of the governor, shall deem advisable, provided, the term of such lease shall not exceed two years, and such lease shall contain a provision that the property so leased, or any part thereof, may at any time during the term of the lease be withdrawn from the operation thereof for public purposes, in which case the rent reserved shall be reduced in proportion to the value of the part so withdrawn. In the event of such withdrawal of property no compensation shall be paid for improvements on the property or otherwise than as stated herein with respect to the reduction of rent."

Section 2. The provisions of this Act shall not invalidate or in any way affect the taking of private property for sites for public buildings by eminent domain proceedings as provided by chapter 3 of the Revised Laws of Hawaii 1935, or by any other act of the legislature, and in the event of a conflict between said chapter 3 of the Revised Laws of Hawaii 1935, or any other act providing for the taking of private property for sites for public buildings by eminent domain proceedings, and the provisions of this Act, then the provisions of this Act shall not be given effect.

Section 3. This Act shall take effect upon its approval.

(Approved April 24, 1941.) **S.B. 261, Act 96.**

Title VIII. PUBLIC WORKS.

CHAPTER 59. HARBORS.

BOARD OF HARBOR COMMISSIONERS.

[A-52] An Act to Amend Section 1730 of the Revised Laws of Hawaii 1935, Relating to the Board of Harbor Commissioners and to Amend Chapter 59 of the Revised Laws of Hawaii 1935 by Adding New Sections Thereto to be Designated Sections 1742-A to 1742-G, Relating to the Harbor Board Special and Bond Funds.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1730 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 1730. Board of harbor commissioners. All ocean shores below mean high water-mark, shore waters and navigable streams, and all harbors and roadsteads, and all harbor and waterfront improvements, belonging to or controlled by the Territory, and all shipping within such harbors, roadsteads, waters and streams shall be under the care and control of a board of harbor commissioners. The board shall consist of five members, one of whom shall be the superintendent of public works who shall be chairman, ex officio, and four shall be appointed by the governor as provided in section 80 of the Organic Act. Such commissioners shall be appointed for terms of four years or the unexpired periods thereof, in such manner that the terms of two commissioners shall expire every second year. The terms shall begin on July 1.

In the absence of the chairman, the acting superintendent of public works shall become the acting chairman of the board." [L. 1911, c. 163, s. 1; am. L. 1915, c. 169, s. 1; ratified, approved and confirmed March 28, 1916, 39 Sts. at L. 39, c. 54; R. L. 935, s. 1730, am. L. 1941, c. 142, s. 1.]

Section 2. Chapter 59 of the Revised Laws of Hawaii 1935 is hereby amended by adding thereto new sections to be numbered 1742-A to 1742-G and to read as follows:

"Sec. 1742-A. Harbor board special fund. At the end of each biennial period there shall be transferred to the harbor board special fund in the treasury of the Territory, which fund is hereby created, any surplus resulting from the financial operations of or for the account of the board under section

1742. The first such transfer shall be made as of midnight of June 30, 1941.

Sec. 1742-B. There is hereby appropriated out of such fund each July 1 of every odd-numbered year a sum not to exceed \$100,000.00.

Sec. 1742-C. Out of said sum may be paid any expenses of operation of the board including salaries, wages or other compensation, of all employees of or under the board and any or all other outlays or expenditures not otherwise restricted in this Act, all or any of which in the judgment of said board are or may be necessary or proper in the performance of its duties and functions.

Sec. 1742-D. No portion of the above appropriated sum shall be used to increase salaries or to construct permanent improvements.

Sec. 1742-E. Payments from the harbor board special fund shall be made by the treasurer of the Territory upon vouchers signed by the chairman or acting chairman of the board.

Sec. 1742-F. Whenever the harbor board special fund shall contain as of July 1 of any odd-numbered year more than \$100,000.00 such excess over said sum shall be transferred to a harbor board bond fund, which fund is hereby created, for the payment of interest, sinking fund and/or retirement charges of bonds the costs of which are chargeable to the harbor board.

Sec. 1742-G. Such amounts as are transferred to the harbor board bond fund are hereby appropriated to the general fund of the Territory for expenditure as set forth in section 8007 of the Revised Laws of Hawaii 1935, and the requirements of section 1742 of the Revised Laws of Hawaii 1935, as amended by Act 133, Session Laws of Hawaii 1935, relating to the amounts to be raised for bond service charges, are hereby reduced by such amounts as are above appropriated."

Section 3. This Act shall take effect upon its approval.

(Approved May 2, 1941.) **S.B. 107, Act 142.**

CHAPTER 60. SPECIFIC DUTIES OF SUPERINTENDENT.

EXPLOSIVES, REGULATION OF.

[A-53] An Act to Amend Chapter 60, as Amended, of the Revised Laws of Hawaii 1935, Relating to Explosives and Combustibles, and the Charge, Supervision, Control and Regulation of the Superintendent of Public Works Thereover, and the Duties of the Sheriffs of the Various Counties and the Chief of Police of Maui and the City and County of Honolulu in Regard Thereto, and to Repeal Sections 2457, 2458, 2459, 2460 and 2461 of the Revised Laws of Hawaii 1935.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 60 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended in the following respects:

(1) By amending section 1770 thereof to read as follows:

“Sec. 1770. Definitions; explosives and combustibles under regulation of superintendent. As used in this subtitle:

(a) ‘Explosives’ means gunpowders, powders used for blasting, high explosives, blasting materials, fuses (other than electric circuit breakers), detonators and other detonating agents, smokeless powder and any chemical compound or any mechanical mixture containing any oxidizing and combustible units, or other ingredients in such proportions, quantities, or packing that ignition by fire, friction, concussion, percussion or detonation of any part thereof may and is intended to cause an explosion, but shall not include fixed ammunition for small arms, firecrackers, crackers, squibs, rockets or matches, when the individual units contain any of the above mentioned articles in such limited quantity or of such nature and in such packing that it is impossible to produce an explosion of such units to the injury of life, limb or property;

(b) ‘Combustibles’ means petroleum and its derivatives, lacquer and paint thinners or solvents, acetone, alcohols, turpentine and any other liquid or solid substances which, at ordinary temperatures and in the presence of air or water, or both, create or give off inflammable or explosive gases.

(c) ‘Superintendent’ means the superintendent of public works of the Territory of Hawaii and his authorized subordinates.

(d) ‘Person’ means any natural person, partnership, association or corporation.

(e) 'Manufacturer' means any person who is engaged in the manufacture of explosives or who otherwise produces any explosive.

(f) 'Dealer' means any person, not a manufacturer, engaged in the business of buying and selling explosives."

Subject to the provisions of this subtitle, the superintendent of public works shall have complete charge, supervision, control and regulation over the manufacture, dealing in, possessing, using, keeping, storing, testing, handling, transporting, selling and purchasing of all explosives and combustibles, but subject to the power of the territorial fire marshal to establish minimum requirements as by law provided. [L. 1911, c. 152, s. 1; R. L. 1935, s. 1770; am. L. 1941, c. 326, pt. of s. 1.]

(2) By amending section 1774 thereof to read as follows:

"Sec. 1774. Empty containers. No empty containers that have held gasoline, kerosene, distillate, benzine, or any of the products of petroleum shall be stored in any building, public or private, or on any wharf, roadway, or government lot, or in any vessel, lighter or other place, public or private, while awaiting shipment, or in process of shipment, unless the openings in such containers are securely stopped with metal screw plugs, or screw caps." [L. 1911, c. 152, s. 5; R. L. 1935, s. 1774; am. L. 1941, c. 326, pt. of s. 1.]

(3) By amending section 1775 thereof to read as follows:

"Sec. 1775. Rules and regulations; fees and charges. The superintendent shall make such rules and regulations not inconsistent with the provisions of this subtitle relating to the manufacturing, dealing in, possessing, using, keeping, storing, testing, handling, transporting, selling and purchasing of all explosives and combustibles as he shall deem necessary for the full and complete protection of life and property, and such regulations when approved by the governor shall have the force and effect of law. The superintendent, in such rules and regulations, may provide that any explosive or combustible which he has determined is not dangerous to life and property shall be excluded from the provisions and operation of this subtitle. Further, the superintendent shall prescribe a schedule of fees and charges for tests, examinations, inspections, approvals, permits and certificates all of which fees or charges shall be reasonable and shall be so determined as only to meet the costs thereof." [L. 1911, c. 152, s. 6; R. L. 1935, s. 1775; am. L. 1941, c. 326, pt. of s. 1.]

(4) By amending section 1776 thereof to read as follows:

"Sec. 1776. Manufacturing, dealing in and using explo-

sives; permits and certificates; applications; granting of. No person shall manufacture or deal in explosives unless he has obtained a permit therefor and no person shall use explosives unless he shall have first obtained a certificate of fitness. Certificates of fitness shall only be issued to individuals.

All applications for such permits and for certificates of fitness shall be made in writing, and verified, and shall state (1) the name and address of the applicant, (2) his age, if an individual, (3) his reason for desiring to manufacture, deal in, or use explosives, (4) his citizenship, if an individual, (5) if a partnership, the names and addresses of the partners and their citizenship, and (6) if an association or corporation, the names and addresses of the officers and directors thereof and their citizenship, (7) and any other information which the superintendent may require. The superintendent shall issue the permit or certificate applied for unless he finds upon investigation or examination that the applicant and, in the case of a permit, each of applicant's officers, agents, or employees who will be charged with the duty of manufacturing and dealing in explosives, is not sufficiently experienced therein, or that the applicant lacks suitable facilities therefor, or that the applicant or any such officer, agent or employee has been convicted of a crime involving moral turpitude, or is disloyal to the United States. A certificate of fitness shall set forth the competency of the individual to whom it is issued, and shall provide for his positive identification. It may be limited as to types or kinds of explosives, or to the use of explosives for specific purposes." [L. 1911, c. 152, s. 7; R. L. 1935, s. 1776; am. L. 1941, c. 326, pt. of s. 1.]

(5) By amending section 1777 thereof to read as follows:

"Sec. 1777. Manufacturer's reports; dealer's record and report. Manufacturers shall file a report with the superintendent at the end of each calendar month giving in said report the names of all purchasers and the amount and description of all explosives sold or delivered and such other information as the superintendent may require.

Dealers shall keep a record of all explosives which they purchase, sell or deliver, which record shall include the name and address of each vendor or vendee, the date of each purchase, sale or delivery and the amount and kind of explosive sold, purchased or delivered and any other information which the superintendent may require. Such record shall be open for inspection by the superintendent and by all federal, territorial and county law enforcement officers at all times; and a copy of such record shall be furnished the superintendent once in each calendar month in such form as he may prescribe."

[L. 1911, c. 152, s. 8; R. L. 1935, s. 1777; am. L. 1941, c. 326, pt. of s. 1.]

(6) By amending section 1778 thereof to read as follows:

"Sec. 1778. Magazines for storage of explosives. The superintendent is authorized to and may construct magazines for the safe keeping and storage of explosives, and he may conduct and operate the same, and permit any person to store explosives therein under such rules and regulations as he may adopt, and subject to such reasonable charges as he may prescribe. No person shall have, store, keep or possess any explosives, or suffer same to remain in any building or upon any premises, unless the same shall be in an approved receptacle or container, or in a magazine operated or approved by the superintendent. The rules and regulations of the superintendent shall govern the quantities and types or kinds of explosives which may be kept in receptacles or containers, and the quantities and types or kinds of explosives which must be kept in magazines, the places where such receptacles or containers shall be kept, or where such powder magazines shall be located, the duration of any such keeping, the dimensions and construction of such receptacles or containers and such powder magazines, and every other use and incident of such receptacles and containers and such magazines." [L. 1911, c. 152, s. 9; am. L. 1919, c. 109, s. 2; R. L. 1935, s. 1778; am. L. 1941, c. 326, pt. of s. 1.]

(7) By amending section 1779 thereof to read as follows:

"Sec. 1779. Transportation. No person shall transport or cause any explosive to be transported except in compliance with the rules and regulations of the superintendent and without first having secured a permit from said superintendent when a permit is required therefor." [L. 1911, c. 152, s. 10; R. L. 1935, s. 1779; am. L. 1941, c. 326, pt. of s. 1.]

(8) By adding a new section thereto to be numbered and known as section 1779A and to read as follows:

"Sec. 1779A. Sale to persons without permit for purchase; county sheriffs and chief of police issue permits, application. No dealer shall sell or deliver explosives to any person who does not hold a certificate of fitness, and a permit for the purchase thereof secured from the sheriff of the county in which the explosive is intended to be used, or his authorized subordinates, or from the chief of police or his authorized subordinates, if the explosive is intended to be used in the County of Maui or the City and County of Honolulu; and no dealer shall sell or deliver explosives except of the types or kinds

and in the quantities as prescribed by, and in compliance with all the terms and conditions contained in said permit.

Applications for such permits shall be made to the said officers and shall state (1) the name and address of applicant, (2) the number of his certificate of fitness if it is numbered, (3) the type or kind and quantity of explosive desired, (4) the locality or localities where the explosive is to be used, (5) the nature of the work to be done, (6) the facts showing a reasonable necessity for the use of explosives, and (7) the quantity of explosives estimated to be reasonably necessary for such work.

If it shall appear that the applicant does not possess a certificate of fitness, or that the nature of the work to be done does not require explosives of the type or kind applied for, or that there is no reasonable necessity for the use of explosives, the application shall be denied. If it shall appear that the quantity of explosives applied for is not reasonably necessary for such work, the application for explosives in excess of the quantity determined to be reasonably necessary shall be denied.

Such permits shall be in the form prescribed by the superintendent and shall be made out in quadruplicate. The original and duplicate shall be delivered to the applicant and the triplicate retained by the officer issuing the permit and the quadruplicate forthwith transmitted to the superintendent. Upon the purchase of explosive the original shall be delivered to the dealer from whom the explosive is obtained for his permanent records, and the duplicate shall be held by the person obtaining such explosive until same has been entirely used and consumed. The person obtaining such explosive shall make a written report to the superintendent showing the amount of explosive remaining on hand at the end of each such month, until the same has been entirely used and consumed."

(9) By adding a new section thereto to be numbered and known as section 1779B and to read as follows:

"Sec. 1779B. Unlawful use or possession of explosives. It shall be unlawful for any person to use any explosives unless he has a certificate of fitness or is using same under the immediate supervision and direction of a holder of such certificate. It shall be unlawful for any person, other than a manufacturer or dealer, to have any explosives in his possession unless he has a permit therefor, or unless he has same in his possession under the direction and for the purposes of a holder of such certificate."

(10) By adding a new section thereto to be numbered and known as section 1779C and to read as follows:

“Sec. 1779C. Revocation of permits and certificates. Any permit or certificate of fitness issued under this subtitle may be revoked or suspended by the superintendent on any ground specified as a ground for denying an application, and for any violation of the provisions of this subtitle or the rules and regulations of the superintendent.”

(11) By adding a new section thereto to be numbered and known as section 1779D and to read as follows:

“Sec. 1779D. National emergency. Any permit or certificate issued under this subtitle may, during any time of national emergency or crisis, be suspended or canceled by the superintendent, and all explosives in the possession or control of any person may be purchased or seized and held in possession by or on the order of the governor until such time as the national emergency or crisis has passed, or until such time as the owner thereof and the government of the United States or the government of the territory may agree upon some other disposition of the same. A national emergency or crisis shall be deemed to exist when such has been so determined as in section 2556 provided.”

(12) By adding a new section thereto to be numbered and known as section 1779E and to read as follows:

“Sec. 1779E. Exceptions. The provisions of this subtitle shall not apply to the armed forces of the United States, the National Guard or employees of the United States or of the territory or its political subdivisions who are authorized by the United States or the territory or its political subdivisions to handle explosives.”

(13) By adding a new section thereto to be numbered and known as section 1779F and to read as follows:

“Sec. 1779F. Appeals. An appeal may be taken from any action of the superintendent or of any officer authorized to act hereunder to the circuit court of the first judicial circuit.”

(14) By adding a new section thereto to be numbered and known as section 1779G and to read as follows:

“Sec. 1779G. Violations; penalties. Any person who violates any provision of this subtitle shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding six months, or by both fine and imprisonment.”

Section 2. **Sections 2457, 2458, 2459, 2460 and 2461** of the Revised Laws of Hawaii 1935, and all Acts and parts of Acts

REAL PROPERTY TAX.

SERIES A-53.—ACT 326]

SERIES A-54.—ACT 215]

SERIES A-55.—ACT 236]

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inconsistent with the provisions of this Act and not expressly repealed herein, are hereby repealed.

Section 3. This Act shall take effect thirty days after the date of its approval.

(Approved May 21, 1941.) **H.B. 463, Act 326.**

Title IX. TAXATION.

CHAPTER 61. ADMINISTRATION AND REAL PROPERTY TAX.

RATE AND DISPOSITION OF TAX.

[A-54] An Act to Amend Section 1921 of the Revised Laws of Hawaii 1935, as Amended, Relating to Rate and Disposition of Tax.

Am. Sec. A 52
H. B. Act 157

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 1921** of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by deleting the figures "500,000.00" appearing in item "(d) The County of Kauai, the sum of.....500,000.00", in paragraph 5 under column III, and inserting in lieu thereof the figures "550,000.00".

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1941.) **S.B. 332, Act 215.**

[A-55] An Act to Extend, in Every Year in Which the Legislature Meets in Regular Session, the Time for the Submission of County Budgets for Taxation Purposes as Required by Sections 1921 and 2102 of the Revised Laws of Hawaii 1935, as Amended.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 1921-A.] Section 1. [Submission of budgets during years Legislature meets.] The time for the submission of

county budgets for taxation purposes as required by section 1921, or section 2102, or both, as amended, of the Revised Laws of Hawaii 1935, is hereby extended, for every year in which the legislature meets in regular session, from March 31 to May 15, and any county budget submitted before May 15 in such years may be amended on or before said date in the manner provided by said section 1921. Any act required by said sections 1921 and 2102, or either of them, as amended by any other Act (including Acts subsequent to this), to be performed on or before any specified date prior to June 20 in each of said years by any officer or other person specified in said sections 1921 and 2102, or either of them, as so amended, shall be valid if performed after such specified date but before June 20 in any such year, any other provisions to the contrary in said sections 1921 and 2102, or either of them, as so amended, or in any other law, to the contrary notwithstanding.

Section 2. This Act shall take effect upon its approval.

(Approved May 14, 1941.) **S.B. 554, Act 236.**

ENFORCEMENT OF PAYMENT.

[A-56] An Act to Amend Section 1961 of the Revised Laws of Hawaii 1935, as Amended by Section 7 of Act 221 (Series A-31) of the Session Laws of Hawaii 1939, and to Amend Section 1961B of the Revised Laws of Hawaii 1935, as Enacted by Section 9 of the Aforesaid Act 221 of the Session Laws of Hawaii 1939, and Relating to the Foreclosure of Liens for Taxes by Sale Without Suit, and to the Disposition of Surplus Moneys Arising from Such Sales.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 1961** of the Revised Laws of Hawaii 1935, as amended by Section 7 of Act 221 (Series A-31) of the Session Laws of Hawaii 1939, is hereby further amended in the following respects:

1. By deleting the last sentence in the first paragraph thereof and inserting, in lieu of same, the following: "If the land has been registered in the land court, the tax collector shall also send by registered mail a notice of the proposed sale to any person holding a mortgage or other lien registered in the office of the assistant registrar of the land court. Said notice shall be sent to any such person at his last address as

shown by the records in the office of the aforesaid registrar, and shall be deposited in the mail at least ten days prior to the date set for the sale."

2. By amending the second paragraph thereof to read as follows:

"The notice of sale shall contain the names of the persons assessed, the names of the present owners, so far as shown by the records of the tax office and the records, if any, in the office of the assistant registrar of the land court, the character and amount of the tax, and the tax year or years, with interest, penalties, costs, expenses and charges accrued or to accrue to the date appointed for the sale, a brief description of the property to be sold, and the time and place of sale, and shall warn the persons assessed, and all persons having or claiming to have any mortgage or other lien thereon or any legal or equitable right, title or other interest in the property, that unless the tax, with all interest, penalties, costs, expenses and charges accrued to the date of payment, is paid before the time of sale appointed, the property advertised for sale will be sold as advertised. The tax collector may include in one advertisement of notice of sale notice of foreclosure upon more than one parcel of real property, whether or not owned by the same person and whether or not the liens are for the same taxation year or years."

3. By amending the last sentence in the last paragraph thereof to read as follows:

"Such costs, expenses and charges may include provision for the making of and the securing of certificates of searches of any records to furnish information to be used in or in connection with the notice of sale or tax deed, or in any case where the tax commissioner shall deem such advisable; provided that the tax collector shall not be required to make such searches or to cause same to be made except as provided by this section with respect to mortgages or other liens registered in the office of the assistant registrar of the land court."

Section 2. **Section 1961B** of the Revised Laws of Hawaii 1935, as enacted by section 9 of Act 221 (Series A-31) of the Session Laws of Hawaii 1939, is hereby amended by deleting the first sentence thereof and inserting in lieu of same the following:

"The officer charged with the duty of distributing the surplus arising from a tax sale under section 1961 shall pay from such surplus all taxes (including interest and penalties), of whatsoever nature and howsoever accruing, as provided in

the second paragraph of section 1960, and further he may pay from such surplus the cost of a search of any records where such search is deemed advisable by him to ascertain the person or persons entitled to such surplus; provided, nothing herein contained shall be construed to require the tax collector to make or cause any such search to be made."

Section 3. This Act shall take effect upon its approval.

(Approved May 14, 1941.) **S.B. 318, Act 255.**

[A-57] An Act Relating to Taxation; Amending Section 1962 of the Revised Laws of Hawaii 1935, as Amended by Act 203 (Series A-46) of the Session Laws of Hawaii 1937 and by Act 182 (Series A-35) of the Session Laws of Hawaii 1939, Relating to Uncollectible Delinquent Taxes; and Amending Section 1970 of the Revised Laws of Hawaii 1935, as Amended by Act 137 (Series A-37) of the Session Laws of Hawaii 1935 and by Act 241 (Series A-47) of the Session Laws of Hawaii 1937, Relating to the Expenses of the Delinquent Tax Bureau.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 1962** of the Revised Laws of Hawaii 1935, as amended by Act 203 (Series A-46) of the Session Laws of Hawaii 1937 and by Act 182 (Series A-35) of the Session Laws of Hawaii 1939, is hereby further amended by amending the last paragraph thereof by deleting from the first proviso, as the same appears in said Act 182 (Series A-35) of the Session Laws of Hawaii 1939, the word "five" and by inserting in lieu thereof the word "two".

Section 2. **Section 1970** of the Revised Laws of Hawaii 1935, as amended by Act 137 (Series A-37) of the Session Laws of Hawaii 1935 and by Act 241 (Series A-47) of the Session Laws of Hawaii 1937, is hereby further amended by substituting for the word "sixty-five" in the fifteenth line thereof, the word "eighty-five".

Section 3. This Act shall take effect on July 1, 1941.

(Approved May 14, 1941.) **H.B. 385, Act 254.**

EXEMPTIONS.

[A-58] An Act Amending Section 1976 of the Revised Laws of Hawaii 1935, as Amended, Relating to the Exemption of Public Property, so as to Provide for the Exemption of Property Leased to the United States.

Be It Enacted by the Legislature of the Territory of Hawaii: ^{Act, S. 451} ~~Act 143~~

Section 1. **Section 1976** of the Revised Laws of Hawaii 1935, as amended by Act 211 (Series A-39) of the Session Laws of Hawaii 1939, is hereby further amended by amending the paragraph thereof numbered "2." to read as follows:

"2. Real property under lease to the United States, the Territory, or any county, under which lease the lessee is required to pay the taxes upon such property;"

Section 2. This Act shall take effect upon its approval.

(Approved May 2, 1941.) **S.B. 382, Act 143.**

[See also, following Act, amending **Sec. 1976.**]

[A-59] An Act Amending Section 1976 of the Revised Laws of Hawaii 1935, as Amended by Act 211, Session Laws of 1939, Relating to Public Property Exempt from Taxation, by Adding Thereto a New Paragraph to be Numbered 6, Exempting Certain Real Property Subject to Set-back Ordinances of the City and County of Honolulu.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 1976** of the Revised Laws of Hawaii 1935, as amended by Act 211 of the Session Laws of Hawaii 1939, is hereby amended by adding thereto a new paragraph to be numbered 6, to read as follows:

"6. Any portion of real property within the area upon which construction of buildings is restricted or prohibited and which is actually rendered useless and of no value to the owners thereof by virtue of any ordinance of the City and County of Honolulu, establishing set-back lines thereon; PROVIDED, HOWEVER, that in order to secure such exemption the person claiming it shall annually file between the first and thirty-first days of January a sworn written statement with the tax assessor describing the real property in detail and

setting forth the facts upon which exemption is claimed, together with a written agreement that in consideration of the exemption from taxes he will not make use of such land in any way whatsoever during the ensuing year. Any person who shall have secured such exemption who shall violate the terms of the agreement shall be liable to be fined twice the amount of the tax which would be assessed upon such land but for such exemption."

Section 2. This Act shall take effect commencing with the taxable year January 1, 1942.

(Approved April 29, 1941.) **H.B. 412, Act 131.**

[See also, preceding Act, amending **Sec. 1976.**]

[**A-60**] An Act Amending Section 1977 of the Revised Laws of Hawaii 1935, as Amended Relating to Exemptions from Property Taxes.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 1977** of the Revised Laws of Hawaii 1935, as amended is hereby further amended by changing the paragraph numbered 15 to read as follows:

"15. Child and family service, an eleemosynary corporation. Key to taxation map: 1st division, zone 2, section 1, plat 24, parcel 4."

Section 2. **Section 1977** of the Revised Laws of Hawaii 1935, as amended is hereby further amended by adding thereto immediately following the paragraph numbered 55 three new paragraphs to read as follows:

"56. The property of the United Welfare Fund, an eleemosynary corporation. Key to taxation map: 1st division, zone 2, section 8, plat 1, parcel 43.

"57. The property of the Palolo Chinese Home, an eleemosynary corporation. Key to taxation map: 1st division, zone 3, section 4, plat 13, parcel 1.

"58. The property of the Lung Kong Kung Shaw society, at 1448 Liliha Street, Honolulu, used as a home for aged and indigent Chinese, so long as the same is used exclusively for such purpose. Key to taxation map: 1st division, zone 1, section 7, plat 32, parcel 22.

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“59. The Bernice Pauahi Bishop Museum, situated at Kapaemahu, Honolulu, so long as the same shall be open to the public free of charge at least three days of each week.”

Section 3. This Act shall take effect upon its approval.

(Approved May 12, 1941.) **H.B. 255, Act 209.**

[A-61] An Act to Exempt from Taxation Certain Associations and Societies Organized and Operating Solely as Nonprofit Medical Indemnity and/or Hospital Service Associations or Societies.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 1977-A.] Section 1. [Nonprofit medical, hospital indemnity associations.] Every association or society organized and operating under chapter 224 of the Revised Laws of Hawaii 1935, as amended, solely as a nonprofit medical indemnity and/or hospital service association or society shall be, from the time of such organization, exempt from every territorial, county and municipal tax, except unemployment compensation tax; provided, that nothing in this Act contained shall be deemed to exempt such association or society from liability to withhold such taxes payable by its employees and pay the same to the proper collection officers, and to keep such records, and make such returns and reports, as may be required in the case of other corporations, associations or societies similarly exempted from the taxes hereabove first mentioned.

Section 2. This Act shall take effect upon its approval, and shall be retroactive as of January 1, 1938.

(Approved May 2, 1941.) **S.B. 370, Act 145.**

REMISSION OF CERTAIN TAXES.

[A-62] An Act to Amend Section 1979 of the Revised Laws of Hawaii 1935, Relating to the Remission of Certain Taxes.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1979 of the Revised Laws of Hawaii 1935, as amended by Act 211, Series A-39, of the Session Laws of Hawaii 1939, is hereby amended to read as follows:

“Sec. 1979. Remission of certain taxes. Whenever any real property is acquired for public purposes by the United States of America, the Territory of Hawaii, or any political subdivision of said territory, the tax assessor and the tax collector of the division in which such property is situated are authorized to remit the taxes due thereon for the balance of the taxation period or year from and after the date of acquisition of such property.

Provided that, in case the territory or any county takes possession of real property which is the subject of eminent domain proceedings commenced for the acquisition of the fee simple estate in such land by the territory or such county, taxes are authorized to be remitted as provided in section 68A, subject, however, to the provisions of subsection 3 (a) of said section 68A.

Provided, further, that, in case the United States of America takes possession of real property which is the subject of eminent domain proceedings commenced for the acquisition of the fee simple estate in such land, taxes are authorized to be remitted for the balance of the taxation period or year after such taking, as provided in this paragraph. Such remission shall be allowed conditionally upon the presentation to the tax commissioner, or to the tax assessor or tax collector of the division in which such property is situated, of a written notice and agreement, signed by the person, or one or more of the persons, owning said land, stating the date of such taking of possession by the United States, and agreeing that out of the first funds received by such owner or owners from such condemnation there shall be paid sufficient moneys to discharge the lien for any real property taxes existing upon said land pro-rated up to and including the date of such taking possession of such property; provided that such notice may be accompanied by payment of said pro-rated amount of taxes in lieu of such agreement. The provisions of paragraph 3 of said section 68A are hereby made applicable to such land and the owner or owners thereof and to the conditional remission authorized by this paragraph. It is further provided, that in the event the said pro-rated taxes up to the time of such taking possession, shall not be paid by the owner or by one or more of the owners of said land within 10 days after receipt by such owner or owners of the compensation for said condemnation, or within such additional time as shall be allowed by the tax assessor, collector or commissioner, then said conditional remission of taxes shall be null and void, and such owner or owners shall be liable for all taxes, penalties and interest which would have accrued had no such conditional re-

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mission been allowed.” [L. 1931, c. 203, s. 1; am. L. 1932, 2d, c. 58, s. 1; R. L. 1935, s. 1979; am. L. 1939, c. 211, s. 2; am. L. 1941, c. 126, s. 1.]

Section 2. This Act shall take effect as of January 1, 1940, and shall apply to condemnations or takings of real property by the United States, or the territory or any county on or after said date; provided, that, with respect to lands so taken or condemned by the United States prior to the date when this Act is approved or otherwise becomes law, no notice or agreement need be given or signed by the owner or owners with respect to such prior taking or condemnation, and that any such remission as to such prior taking or condemnation shall not be effective until the amount of taxes accrued upon the property so taken or condemned, pro-rated to the time of such taking or entry of final order of condemnation (in cases where possession is not taken prior to such entry) shall be paid; and provided, further, that, with respect to lands so taken or condemned by the United States prior to the date this Act is approved or otherwise become law, when the owner or owners shall have paid the whole or a portion of the amount of taxes accrued upon the property so taken or condemned and the amount so paid shall be in excess of the amount of taxes pro-rated to the time of such taking or entry of such final order, as the case may be, the amounts so paid by the owner or owners in excess of such pro-rated amount are authorized to be remitted.

(Approved April 29, 1941.) **H.B. 303, Act 126.**

CHAPTER 64.

FUEL TAX.

Am., Sr. 913 S. 1
P. S. 41

[A-63] An Act to Amend Section 2021 of the Revised Laws of Hawaii 1935, as Amended by Act 172 of the Session Laws of Hawaii 1937, Relating to the Use of the Fuel Tax Highway Fund.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2021** of the Revised Laws of Hawaii 1935, as amended by Act 172 of the Session Laws of Hawaii 1937, is hereby further amended by eliminating the semi-colon after the word “purposes” immediately before the word “provided” and by inserting the words and semi-colon, to wit:

“and footpaths and/or sidewalks;” in the last portion of paragraph 4 of said Act 172 aforesaid. The construction of such footpaths and/or sidewalks shall be along Federal Aid Highways only.

Section 2. This Act shall take effect after the date of its approval.

(Approved May 12, 1941.) **S.B. 276, Act 212.**

CHAPTER 64 A. GENERAL EXCISE TAX LAW.

[A-64] An Act to Amend Sections 1, 4, 5, 6, 7, 8, 13, 17 and 18 of Act 141 of the Session Laws of Hawaii 1935, as Amended, Relating to the General Excise Tax, and Adding to Said Act a New Section to be Numbered Section 8A, Relating to Audits, Examinations and Penalties.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1 [Sec. 2025A.] of Act 141 of the Session Laws of Hawaii 1935, as amended, is hereby amended in the following respects, to wit:

(a) By amending subsection (6) thereof to read as follows:

“(6) ‘Gross income’ means the gross receipts, cash or accrued, of the taxpayer received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible personal property, or service, or both, and all receipts, actual or accrued as hereinafter provided, by reason of the investment of the capital of the business engaged in, including interest, discount, rentals, royalties, fees, or other emoluments however designated and without any deductions on account of the cost of property sold, the cost of materials used, labor cost, taxes, royalties, interest or discount paid or any other expenses whatsoever. Provided, that every taxpayer shall be presumed to be dealing on a cash basis unless he proves to the satisfaction of the commissioner that he is dealing on an accrual basis and his books are so kept, or unless he employs or is required to employ the accrual basis for the purposes of the tax imposed by chapter

65 of the Revised Laws of Hawaii 1935 for any taxable year in which event he shall report his gross income for the purposes of this Act on the accrual basis for the same period.”

(b) By amending subsection (14) thereof to read as follows:

“(14) ‘Contractor’ shall include, for purposes of this Act, every person engaging in the business of contracting to erect, construct, repair or improve buildings or structures, of any kind or description, including any portion thereof, or to make any installation therein, or to make, construct, repair or improve any highway, road, street, sidewalk, ditch, excavation, fill, bridge, shaft, well, culvert, sewer, or water system, drainage system, dredging or harbor improvement project, electric or steam rail, lighting or power system, transmission line, tower, dock, wharf, or other improvements.”

(c) By adding thereto a new subsection to be numbered (17) to read as follows:

“(17) The word ‘penalty’ or ‘penalties’, when used in connection with the additions to the tax imposed for delinquency in payment, shall include interest as well.”

[Sec. 2 of Act 141, **Sec. 2025B**, amended by Act 115, *infra*, page 105.]

Section 2. Section 4 [**Sec. 2025D.**] of Act 141 of the Session Laws of Hawaii 1935, as amended, is hereby further amended in the following respects, to wit:

(a) By adding to the first paragraph of subsection (1) thereof, at the end of said paragraph, the following:

“(1) Lepers and kokuas, with respect to business within the county of Kalawao;”.

(b) By adding three new paragraphs to subsection (1) thereof to read as follows:

“Provided, further, that the exemptions enumerated in this section 4 (1) from (f) to (k), both inclusive, shall apply only to those persons who (1) shall have registered with the tax commissioner on or before January 31 of each calendar year, or within one month after the commencement of business, by filing a written application for registration in such form as the commissioner shall prescribe, and (2) shall have paid for such registration an annual fee of one dollar (\$1.00), and (3) shall have had the exemption allowed by the commissioner or by a court or tribunal of competent jurisdiction upon appeal from any assessment resulting from disallowance of the exemption by the commissioner, and (4) shall make returns of gross income and gross proceeds of sales as required by this Act.

In order to obtain allowance of an exemption an application for exemption shall be filed in the form of an affidavit or affidavits setting forth in general all facts affecting the right to the exemption and such particular facts as the commissioner may require, to which shall be attached such records, papers and other information as the commissioner may prescribe. Such application for exemption shall be filed on or before March 31 of the first year of registration or within three months after the commencement of business. In the event of allowance of the exemption no further application therefor need be filed unless there be a material change in the facts, but such person nevertheless shall register annually. In the event of disallowance of the exemption a license may be obtained without payment of a further fee, and in the event the registrant has a license under this Act no further fee shall be required for registration under this section.

The commissioner for good cause may extend the time for registration or the time for filing an application for exemption, but such extension or extensions shall not aggregate more than a total of two months."

Section 3. Section 5 [**Sec. 2025E.**] of Act 141 of the Session Laws of Hawaii 1935, as amended, is hereby amended by amending the first paragraph thereof to read as follows:

"Sec. 5. Computation of tax, payment. (1) The taxes levied hereunder shall be payable in monthly installments on or before the expiration of twenty days from the end of the month in which they accrue. The taxpayer shall, within twenty days from the expiration of each month, make out and sign an estimate of the tax for which he is liable for such month and transmit the same, together with a remittance, in the form required by section 12 of this Act, for the amount of the tax, to the office of the appropriate territorial divisional tax assessor hereinafter designated. Any person registered or required to be registered under section 4 of this Act, shall file monthly returns of gross income and gross proceeds of sales, but while his application for exemption is pending before the tax commissioner or if it be allowed no payment of tax need accompany the return."

Section 4. Section 6 [**Sec. 2025F.**] of Act 141 of the Session Laws of Hawaii 1935, as amended, is hereby amended by adding thereto a new paragraph to be numbered (4) to read as follows:

"(4) The provisions of this section shall apply to every person registered or required to be registered under section 4

of this Act, provided, that while an application for exemption is pending before the tax commissioner or if it be allowed no payment of tax need accompany the return."

Section 5. Section 7 of Act 141 of the Session Laws of Hawaii 1935, as amended, is hereby amended by amending the first paragraph thereof to read as follows:

[Sec. 2025G.] "Sec. 7. **Erroneous returns, disallowance of exemption, payment, refund.** (1) If any return made is erroneous, or is so deficient as not to disclose the full tax liability, or if the taxpayer, in his return, shall disclaim liability for the tax on any gross income or gross proceeds of sales liable to the tax, the tax commissioner shall correct such error or assess the proper amount of taxes. If such recomputation results in an additional tax liability, or if the commissioner proposes to assess any gross income or gross proceeds of sales by reason of the disallowance of an exemption, the commissioner shall first give notice to the taxpayer of the proposed assessment, and the taxpayer shall thereupon have an opportunity within thirty days to confer with the commissioner. After the expiration of thirty days from such notification the commissioner shall assess the gross income or gross proceeds of sales of the taxpayer or any portion thereof which he believes has not heretofore been assessed, and shall give notice to the taxpayer of the amount of the tax, and the amount thereof shall be due and payable on the twenty-first day after the date the notice was mailed, properly addressed to the taxpayer at his last known address or place of business. Provided, that no preliminary notice shall be necessary where the amount of the tax is calculated by the commissioner from gross income returned by the taxpayer as subject to the tax (unless the taxpayer shall have claimed that the one-quarter ($\frac{1}{4}$) of one per cent rate is applicable and the commissioner shall have applied the one and one-quarter ($1\frac{1}{4}$) per cent rate); in such case the tax shall be due and payable on the tenth day after the date the statement was mailed."

Section 6. Section 8 of Act 141 of the Session Laws of Hawaii 1935, as amended, is hereby amended to read as follows:

[Sec. 2025H.] "Sec. 8. **Failure to make return.** If any person shall fail, neglect or refuse to make a return, the commissioner may proceed as he deems best to obtain information on which to base the assessment of the tax. After procuring such information the commissioner shall proceed to assess the tax and shall notify the person assessed of the amount of the tax and penalty. Any assessment of tax by the tax commissioner

made pursuant to the provisions of this section shall be final, and any tax so assessed shall be deemed to have been in default from the time when such tax should have been returned and paid.” [L. 1935, c. 141, s. 8; R. L. 1935, s. 2025H; am. L. 1941, c. 265, s. 6.]

Section 7. Act 141 of the Session Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section to be numbered section 8-A to read as follows:

[Sec. 2025HH.] “Sec. 8-A. Audits, procedure, penalties.

(1) Audit. The commissioner or any duly appointed deputy tax commissioner, assessor, or deputy assessor, or a responsible person designated by the commissioner or by a deputy tax commissioner to act in the premises for the purpose of verification or audit of a return made by the taxpayer, or where there is reasonable ground to believe that any return made is so deficient as not to form the basis of a satisfactory assessment of the tax, or for the purpose of making an assessment where no return has been made, is authorized and empowered to examine all account books, bank books, bank statements, records, vouchers, taxpayer’s copies of federal tax returns, and any and all other documents and evidences having any relevancy to the determination of the gross income or gross proceeds of sales of any taxpayer as required to be returned under this Act and may summon or require the attendance of the person by or for whom the return (if any) has been made or whose tax is being assessed, and any employee of such person, and may summon or require the attendance of any person having knowledge in the premises, naming the time and place in the summons, and may require the production of any books, statements or other evidences open to his examination, and may take testimony in reference to any such matter relevant to the gross income or gross proceeds of sales of the taxpayer for the period under consideration, with power to require that the person so called and appearing shall be interrogated under oath and to administer such oath.

(2) Additional taxes. If the commissioner determines that any gross income or gross proceeds of sales liable to the tax have not been assessed he may assess the same as provided in sections 7 and 8 of this Act.

(3) False swearing perjury. Any individual knowingly giving false testimony under oath at any such hearing before the commissioner or other person authorized to conduct such hearing under the provisions of this section shall be guilty of

perjury and shall be punished as provided by law.

(4) Refusal to obey summons or testify; penalty. Any person refusing or neglecting to obey any summons issued by the commissioner or other person authorized to issue such summons under the provisions of this section, and any individual appearing and refusing to testify under oath, shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of fifty dollars for the first offense and one hundred dollars for each succeeding offense."

Section 8. Section 13 of Act 141 of the Session Laws of Hawaii 1935, as amended, is hereby further amended to read as follows:

[Sec. 2025M.] "Sec. 13. **Tax debt due Territory; lien; bulk sales; penalty for failure to pay.** (1) A tax due and unpaid under this Act shall be a debt due the Territory and shall be a lien upon the property used in the business or occupation upon which it is imposed. The lien shall have the same priority as the lien of territorial real property taxes.

(2) In any case of the sale in bulk of the whole, or a large part of a stock of merchandise and fixtures, or merchandise, or fixtures, or other assets of a business, otherwise than in the ordinary course of trade, and in the regular and usual prosecution of the seller's business, the seller shall make a written and verified report of such bulk sale to the tax commissioner not later than ten days after the possession, or the control, or the title of the property, or any part thereof, has passed to the purchaser, which report shall contain the name and address of the purchaser, a brief description of the property sold and the purchase price, the date when such sale is to be or was consummated, and such other facts as the tax commissioner may require. The purchaser may make such report for the seller. The purchaser of such property shall withhold payment of the purchase price until the receipt of a certificate from the tax commissioner to the effect that all taxes, penalties and interest levied or accrued under this Act against the seller, or constituting a lien upon such property, have been paid, which certificate shall show on its face that the tax commissioner has had notice of the bulk sale, and shall also show the names of the seller and purchaser, a brief description of the property sold, and the date of consummation of the sale, together with such other information as the tax commissioner shall prescribe. If the required report of the bulk sale is not made, or if the said taxes, penalties and interest shall not be paid within twenty days after the possession, or the

control, or the title of the property, or any part thereof, has passed to the purchaser, or within such further time as the tax commissioner may allow, the purchaser shall be personally liable to pay to the Territory the amount of all taxes, penalties and interest levied or accrued under this Act against the seller or constituting a lien upon such property, together with penalties and interest thereafter accruing, not exceeding, however, the amount of the purchase price, provided, that the issuance of a certificate in the prescribed form shall be a complete defense to such liability of the purchaser. In any case of such liability upon the part of the purchaser a written report thereof shall be made by the purchaser upon the next due date for the payment of gross income taxes. For the purposes of this subsection the 'purchase price' shall include money, or the value of any consideration other than money.

Failure to make any report required by this subsection shall constitute a misdemeanor punishable by a fine or not more than one hundred dollars (\$100.00). In addition, penalties and interest shall apply to such delinquent taxes if not paid within twenty days after the possession, or the control, or the title of the property, or any part thereof, has passed to the purchaser, or within such further time as the tax commissioner may allow, whether or not an assessment of the tax has been made or notice of the delinquency given. The purchaser shall have his remedy against the seller for the amount of taxes, penalties or interest paid by him.

(3) A penalty of five per cent of the tax shall be added for any default for thirty days or less and for each succeeding calendar month or fraction thereof elapsing before payment, there shall be added interest of one per cent, which penalty and interest shall be and become a part of the tax and be collected as a part thereof. The additional one per cent interest shall not apply until a ten-day notice of delinquency shall have been sent to the taxpayer." [L. 1935, c. 141, s. 13; R. L. 1935, s. 2025M; am. L. 1941, c. 265, s. 8.]

Section 9. Section 17 [**Sec. 2025Q.**] of Act 141 of the Session Laws of Hawaii 1935, as amended, is hereby amended by inserting after the word "assessment" in the fourth line thereof the words "or assessments."

Section 10. Section 18 [**Sec. 2025R.**] of Act 141 of the Session Laws of Hawaii 1935, as amended, is hereby amended by inserting after the words "assistance of" in the sixth line thereof the words "the high sheriff or."

Section 11. **Constitutionality.** If any section, sentence, clause or phrase of this Act, or its application to any person

or circumstance, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances, shall not be affected. The legislature hereby declares that it would have passed this Act, and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 12. This Act shall take effect upon its approval, except section 1 (a) which shall take effect July 1, 1941.

(Approved May 16, 1941.) **S.B. 195, Act 265.**

[**A-65**] An Act to Provide for the Apportionment of Certain Gross Income Heretofore or Hereafter Derived from Occupations Subject to the General Excise Tax, and for Inclusion of the Gross Income So Apportioned in the Measure of the General Excise Tax.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2 [**Sec. 2025-B.**] of Act 141 (Series A-44) of the Session Laws of Hawaii 1935, as amended by Act 128 (Series A-51) of the Session Laws of Hawaii 1937 and by Act 252 (Series A-42) of the Session Laws of Hawaii 1939, is hereby further amended by adding thereto a new subsection to be numbered IV, to read as follows:

“IV. If any person, other than persons liable to the tax on manufacturers as provided by part A of subsection 1 of this section, is engaged in business both within and without the Territory, and if, under the Constitution or laws of the United States the entire gross income of such person cannot be included in the measure of this tax, there shall be apportioned to the Territory and included in the measure of the tax that portion of the gross income which is derived from activities within the Territory, to the extent that such apportionment is required by the Constitution or laws of the United States. In the case of a tax upon the production of property in the Territory such apportionment shall be determined as in the case of the tax on manufacturers. In other cases, if and to the extent that such apportionment cannot be accurately made by separate accounting methods, there shall be apportioned to the Territory and included in the measure of this tax that proportion of the total gross income, so requiring apportionment,

which the cost of doing business within the Territory, applicable to such gross income, bears to the cost of doing business both within and without the Territory, applicable to such gross income.”

Section 2. Constitutionality. If any section, sentence, clause or phrase of this Act, or its application to any person or circumstance is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances shall not be affected. The legislature hereby declares that it would have passed this Act, and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 3. This Act shall take effect upon its approval and shall apply to all returns and assessments hereafter made, whether the business was done or the gross income derived before or after the effective date of this Act.

(Approved April 28, 1941.) **S.B. 159, Act 115.**

CHAPTER 65. INCOME TAX.

COMPUTATION OF TAXABLE INCOME.

[A-66] An Act to Amend Section 2033 of the Revised Laws of Hawaii 1935, Relating to the Computation of Taxable Income.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Paragraph (j), of subsection 2, of **section 2033** of the Revised Laws of Hawaii 1935, as said paragraph was enacted by Act 241, Series A-44, of the Session Laws of Hawaii 1939, is hereby amended to read as follows:

“(j) Compensation received from the United States by officers and enlisted personnel for service in the regular army, navy, marine corps, or coast guard, including the respective reserve corps of the United States and the Hawaii National Guard.”

Section 2. This Act shall take effect upon its approval but shall apply only to gross income received or accruing during the taxable year 1941 and subsequently.

(Approved April 24, 1941.) **H.B. 275, Act 94.**

[A-67] An Act Amending Section 2034, Revised Laws of Hawaii 1935, as Amended, Relating to Income Tax Exemptions and Deductions.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2034**, Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending paragraph (b), subsection 2 thereof, to read as follows:

“(b) If married and living with husband and wife, or the head of a family with dependents, an exemption of two thousand dollars; and for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer, if under eighteen years of age, incapable of self-support, or if under twenty-one years of age and attending a recognized educational institution, an exemption of two hundred dollars; but in no event shall this larger exemption or the exemption for the same dependent be deducted by both husband and wife;”.

Section 2. This Act shall take effect from and after the date of its approval.

(Approved April 29, 1941.) **S.B. 37, Act 119.**

[A-68] An Act to Amend Section 2039, Revised Laws of Hawaii 1935, Relating to Computation of Net Income for Income Tax Purposes by Adding Thereto, at the End Thereof, a New Subsection to be Numbered Subsection 8, Relating to Allocation of Income Received During Any One Year But Earned Over a Period of Three Years or More.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2039**, Revised Laws of Hawaii 1935, is hereby amended by adding thereto, at the end thereof, a new subsection to be numbered subsection 8, and to read as follows:

“8. In the case of compensation received for personal services rendered by an individual in his individual capacity, or as a member of a partnership, and covering a period of three (3) calendar years or more from the beginning to the completion of such services and required to be included in gross income of such individual for any taxable year beginning after December 31, 1940, the tax attributable to such compensation shall not be greater than the aggregate of the taxes attributable

to such compensation had it been received in equal portions in each of the years included in such period.”

Section 2. This Act shall take effect upon its approval and shall apply to all income received subsequent to December 31, 1940.

(Approved May 6, 1941.) **H.B. 280, Act 165.**

GENERAL PROVISIONS.

[A-69] An Act Amending Section 2050-A of the Revised Laws of Hawaii 1935, as Enacted by Act 223 of the Session Laws of Hawaii 1939, Relating to Net Income Taxes; Providing for Refunds and Making an Appropriation Therefor.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2050-A** of the Revised Laws of Hawaii 1935, as enacted by Act 223 of the Session Laws of Hawaii 1939, is hereby amended:

(a) By deleting the paragraph thereof numbered 3 and by substituting in lieu thereof the following:

“3. Any refund earned under this section shall be made upon a requisition of the tax commissioner on the territorial auditor, who shall issue his warrant in the form prescribed by section 594 of the Revised Laws of Hawaii 1935, on the territorial treasurer, which shall be paid out of the ‘Net Income Tax Reserve Fund’ in the next succeeding paragraph hereof created.”

(b) By deleting the paragraph thereof numbered 4 and by substituting in lieu thereof the following:

“4. There is hereby appropriated, from the general revenues of the territory, not otherwise appropriated, the sum of seven thousand five hundred dollars (\$7,500.00) which shall be set aside as a special fund to be known as the ‘Net Income Tax Reserve Fund’, the same to be subject to the warrants of the auditor of the territory, upon the treasurer of the territory, as in and by this Act provided. The commissioner, in his discretion, from time to time, may deposit taxes collected by him under the provisions of this Act, in the territorial treasury to the credit of the ‘Net Income Tax Reserve Fund’, so that there shall be maintained at all times a fund of seven thousand five hundred dollars (\$7,500.00).”

Section 2. This Act shall take effect upon its approval.

(Approved May 3, 1941.) **H.B. 309, Act 157.**

CHAPTER 66. INHERITANCE TAX.

[A-70] An Act to Amend Section 2074 of the Revised Laws of Hawaii 1935 Relating to Appraisals.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The first paragraph of **section 2074** of the Revised Laws of Hawaii 1935 is hereby amended:

(a) by substituting for the words "as often as and whenever occasion may require," in the fifth and sixth lines thereof, the words "if such appointment shall seem to the circuit judge to be necessary," and

(b) by substituting for the word "five" in the twenty-seventh line thereof the word "ten".

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1941.) **S.B. 478, Act 294.**

CHAPTER 67. PERSONAL PROPERTY TAX.

[Sec. 2102. Personal property tax; rate. Amended by Act 236, supra, page 89.]

CHAPTER 68. POLL TAX.

[A-71] An Act to Amend Chapter 68 of the Revised Laws of Hawaii 1935, as Amended by Act 181 (Series A-48) of the Session Laws of Hawaii 1939, and by Act 213 (Series A-34) of the Session Laws of Hawaii 1939, Relating to the Poll Tax, by Extending the Application of Said Tax, by Providing Penalties for the Enforcement of Said Chapter, as Amended, and by Providing Exemptions From Said Tax.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 68 of the Revised Laws of Hawaii 1935,

as amended by Act 181 (Series A-48) of the Session Laws of Hawaii 1939, by Act 213 (Series A-34) of the Session Laws of Hawaii 1939, and by Act 10 of the Session Laws of Hawaii 1941, is hereby further amended by amending section 2125 thereof to read as follows:

"Sec. 2125. Poll tax; amount; who exempt; payment in service. 1. An annual tax of five dollars shall be paid:

(a) By every male and female inhabitant of the territory, provided, however, that every female inhabitant of the territory having an annual independent income of less than two hundred dollars shall, subject to the provisions of sections 2127 and 2133, be exempt from the tax, and provided, further, that the tax may, pursuant to regulations made by the tax commissioner, be worked out, by any indigent person on the public roads of the county wherein he resides, under the direction of the board of supervisors, at the rate of two dollars per day of eight hours' work;

(b) By every individual within the territory on the due date of the tax, who shall be employed in the territory for not less than ninety days in the aggregate between January 1 and June 20 of the calendar year for which such tax is imposed and shall derive not less than one hundred dollars from employment in the territory between said January 1 and June 20, provided, that for the purpose of determining such tax liability employment in the territory shall include any business, trade, profession, occupation, calling or employment whatsoever, whether for oneself or an employer or otherwise.

2. There shall be exempted from said tax in addition to persons otherwise exempted:

(a) Persons who are less than twenty or more than sixty years of age;

(b) Infirm indigents;

(c) Members of the army of the United States and of the United States navy and marine corps, who are in federal service on active duty with such army, navy, or marine corps;

(d) Members of the United States coast guard, on active service;

(e) Persons in attendance at school outside the territory;

(f) Convicts serving sentence in the territorial prison;

(g) Inhabitants who are absent from the territory, and have been absent for a period of one year or more immediately prior to the due date of the tax;

(h) Blind persons." [L. 1932, 2d, c. 45, s. 1; am. L. 1933, c. 32, s. 1; R. L. 1935, s. 2125; am. L. 1941, c. 10, s. 1; am. L. 1941, c. 239, s. 1.]

[**Sec. 2125** also amended by Act 10, *infra*, page 113.]

Section 2. Chapter 68 of the Revised Laws of Hawaii 1935, as amended by Act 181 (Series A-48) of the Session Laws of Hawaii 1939, and by Act 213 (Series A-34) of the Session Laws of Hawaii 1939, is hereby further amended by adding thereto a new section to be numbered 2126 A to read as follows:

“Sec. 2126 A. Payment of tax; penalty. Every individual liable to the tax who has not received from his employer a receipt showing the payment of the tax, shall report his liability for the tax to the tax commissioner and shall pay the tax on or before June 20 of the calendar year for which such tax is imposed. Any person who fails to report his liability for such tax to the tax commissioner, or who, after demand for the tax by the tax commissioner, shall hold or receive money or other property sufficient to pay the tax and not exempted by law from attachment, garnishment, execution or other proceedings for the satisfaction of such tax liability, and shall fail to pay the tax within five days, shall be guilty of a misdemeanor.”

Section 3. Chapter 68 of the Revised Laws of Hawaii 1935, as amended by Act 181 (Series A-48) of the Session Laws of Hawaii 1939, and by Act 213 (Series A-34) of the Session Laws of Hawaii 1939, is hereby further amended by amending the first paragraph of section 2127 thereof to read as follows:

“Sec. 2127. Employer required to withhold and pay tax when; duties, rights. 1. Any employer making payments, during the period of January 1 to June 20 of any calendar year, to any person taxed under section 2125, or to any female person (whether or not her independent income for such year is or may be less than two hundred dollars), or to any individual described in paragraph (b) of subsection 1 of section 2125 (whether or not at the time of withholding such employee has been employed in the territory for the period and has derived therefrom the sum therein set forth), of commissions, fees, wages, salaries, bonuses and every and all other kinds of compensation paid for or attributable to personal services performed within the territory, other than compensation of the nature mentioned in paragraph 2 herein, shall withhold from such compensation the tax of five dollars and shall, on or before July 1 of such year, but not later than thirty days after such amount was withheld, pay the amount so withheld to the officer authorized by law to collect income taxes in the taxation division in which the compensation was paid. Any

amount so withheld on or before June 20 of the calendar year for which the tax is due, by an employer from the compensation due an employee, shall be deemed to have been paid, in so far as concerns the liability of the employee, before the delinquent date therefor, and any amount paid on or before July 1 of such year by the employer but not later than thirty days after such amount was withheld, on account of the poll tax due from such employee, shall be deemed to have been paid before the delinquent date therefor, in so far as concerns the liability of the employer. Each employer, whenever any amount is withheld from the compensation due an employee on account of the tax, shall issue to the employee a receipt in such form as shall be prescribed or approved by the tax commissioner, setting forth the amount so withheld and the purpose for which the same is withheld."

Section 4. Chapter 68 of the Revised Laws of Hawaii 1935, as amended by Act 181 (Series A-48) of the Session Laws of Hawaii 1939, and by Act 213 (Series A-34) of the Session Laws of Hawaii 1939, is hereby further amended by amending section 2133 thereof to read as follows:

"Sec. 2133. Recovery by application to collecting officer; limitation; appeal. If it shall be shown, upon application of an employee or otherwise, in accordance with the rules and regulations of the commissioner, (1) that more than the amount of the poll tax due from the employee has been withheld from his compensation or paid to the territory, or (2) that the employee is exempt from, or otherwise not liable to, the payment of the poll tax for such year (as in the case of a female employee who may prove that she has received an independent income of less than two hundred dollars during such year, or in the case of an individual described in paragraph (b) of subsection 1 of section 2125 who may prove that he was employed in the territory less than ninety days between January 1 and June 20 of such year or derived less than one hundred dollars from employment in the territory between said January 1 and June 20), the collecting officer (or the treasurer pursuant to the written direction of the tax commissioner) shall refund the amount found to have been overpaid or otherwise not due from the employee, out of current collections of the poll tax, if any, or make proper adjustments on account thereof during the succeeding calendar year by refunding the same or applying the same on account of the poll tax payable by the employee (if any be so payable) for the succeeding calendar year. Any person aggrieved by the decision of the tax commissioner or tax collector upon any application for a refund duly made pursuant to this section, may

appeal therefrom without costs to the board of review of the division in which the amount claimed or any portion thereof was withheld or paid, in the same manner as in the case of appeals under chapter 61 from assessments of unreturned or omitted property." [L. 1932, 2d, c. 45, pt. of s. 3; R. L. 1935, s. 2133; am. L. 1939, c. 181, s. 1; am. L. 1941, c. 239, s. 4.]

Section 5. Constitutionality. If any section, sentence, clause or phrase of this Act, or its application to any person or circumstances, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances, shall not be affected. The legislature hereby declares that it would have passed this Act, and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 6. This Act shall take effect upon its approval.

(Approved May 14, 1941.) **H.B. 384, Act 239.**

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[A-72] An Act to Amend Section 2125 of the Revised Laws of Hawaii 1935, Relating to Poll Tax and Exemption From Payment Thereof.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2125 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 2125. Poll tax; amount; who exempt; payment in service. An annual tax of five dollars shall be paid by every male and female inhabitant of the territory between the ages of twenty and sixty years, unless such person be an infirm indigent, or unless such person be in attendance at school outside the territory, or unless such person be on ordered active duty as a member of the national guard, naval militia, organized reserves, including the officers reserve corps, and the enlisted reserve corps, or unless such person be inducted or drafted into the military or naval service under the Selective Service Training Act of 1940, or any other similar Act, or unless such person be on active service in the United States Coast Guard, or unless such person shall have been convicted and serving sentence in the territorial prison on the due date of the tax, or unless such person shall have been absent from

the territory for a period of one year or more on the due date of the tax, or unless such person be otherwise exempted by law; provided, however, that every female inhabitant of the territory having an annual independent income of less than two hundred dollars shall, subject to the provisions of sections 2127 and 2133, be exempt from the tax; provided, further, that the tax may, pursuant to regulations made by the tax commissioner, be worked out, by any indigent person on the public roads of the county wherein he resides, under the direction of the board of supervisors, at the rate of two dollars per day of eight hours' work."

Section 2. This Act shall take effect on its approval.

(Approved April 7, 1941.) **H.B. 63, Act 10.**

[Sec. 2125 also amended by Act 239, supra, page 110.]

CHAPTER 69 A. PUBLIC WELFARE TAX.

[A-73] An Act to Provide for More Adequate Financing of the Public Welfare Program of the Territory of Hawaii by Renumbering and Amending Chapter IV of the Appendix to the Revised Laws of Hawaii 1935, as Amended, so as to Provide for a Public Welfare Tax, for the Levy and Collection and the Disposition of the Proceeds of Such Tax, and for Recoverable and Other Advances From the Territorial General Fund to Supplement the Receipts From Such Tax for Public Welfare Purposes, and so as to Coordinate This Act With the Provisions of Chapters 259A and 259A-1 of Said Revised Laws, as Amended.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter IV of the Appendix to the Revised Laws of Hawaii 1935 (Act 209, Session Laws of Hawaii 1933), as amended, is hereby further amended by renumbering the same as chapter 69A of the Revised Laws of Hawaii 1935, and amending the same to read as follows:

"Chapter 69A. Public Welfare Tax.

[Sec. 2148.01.] Sec. 1. **Definitions.** Wherever used in this chapter, unless the subject matter, context or sense otherwise require:

(a) 'Employer' shall include any individual, person, trust

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estate, decedent's estate, business trust, corporation, association, joint stock company, national bank, insurance company, partnership or other entity or group employing any person, and shall also include the auditor of the Territory, the auditor of any county, and any other officer or agent of the Territory, or any county, charged with the disbursement of public moneys as compensation to employees of the Territory or county, or any department or agency thereof, as the case may be, in so far as such disbursements are concerned. 'Employer' shall also include the United States and instrumentalities of the United States.

(b) 'County' shall include the city and county of Honolulu, and each county of the Territory.

(c) 'Compensation' shall mean and include commissions, fees, wages, salaries, bonuses and every and all other kinds of compensation paid for or attributable to personal services performed within the territory received by an individual, which services have been performed by such person as an employee under the direction and control of the employer, and shall also include, without limitation of the foregoing definition, all fees, commissions, bonuses, and all other kinds of compensation, paid to trustees or directors of trusts, unincorporated associations, or corporations or to executors, administrators, receivers, masters, commissioners, and the like, for their services as such where such compensation is not included in the measure of a tax payable by such person under the general excise tax law.

(d) 'Dividends' means any distribution, whether in money or in other property, made by a corporation, national banking association, insurance company, association, or joint stock company, to its shareholders or holders of an interest therein on account of ownership of such shares or interest.

(e) 'Local company' shall mean and include every corporation, national banking association, insurance company, association or joint stock company organized in or under the laws of the Territory.

(f) 'Foreign company' shall mean and include every corporation, national banking association, insurance company, association or joint stock company organized in or under the laws of any jurisdiction other than the territory.

(g) 'Department' shall mean the department of public welfare of the Territory.

(h) 'Commissioner' shall mean and include the tax commissioner of the Territory and any duly appointed subordinate of his department duly authorized by him to perform

any of the duties and functions imposed upon him by this chapter.

(i) 'Collector' shall include the tax commissioner and any tax collector of the Territory.

(j) 'Month' shall mean calendar month.

(k) References to 'chapter 65', or to any section of said chapter, shall be deemed to mean said chapter or section as the same exists, or may be amended from time to time in the future.

(l) Compensation shall be deemed to have been paid 'for the relief of unemployment', within the meaning of section 3 (b) of this chapter, only when paid to employees whose need of employment, or of some form of public assistance, has been determined by federal, territorial or county authorities, where it shall appear that the payment of such compensation is a form of public assistance for the relief of need, and that the amount of such compensation is based upon the needs of the persons assisted and not upon the prevailing rate of compensation for the work done. [L. 1933, c. 209, s. 1; R. L. 1935, Chap. IV, Appendix, s. 1; am. L. 1935, c. 135, pt. of s. 1; am. L. 1939, c. 252, pt. of s. 1; am. L. 1939, c. 241, s. 1; am. L. 1941, c. 213, pt. of s. 1.]

[Sec. 2148.02.] Sec. 2. **Short title of chapter.** This chapter may be cited as the 'Public Welfare Tax Law.' [L. 1933, c. 209, s. 2; R. L. 1935, Chap. IV, Appendix, s. 2; am. L. 1935, c. 135, pt. of s. 1; am. L. 1941, c. 213, pt. of s. 1.]

[Sec. 2148.03.] Sec. 3. **Tax exemptions.**

(a) There shall be assessed, levied, collected and paid for each month a tax of five-tenths of one per cent (or such other rate as shall be fixed pursuant to this chapter) upon the amount of all compensation, not exempted under subsection (b) or (c) hereof, received by every person, during all or any part of such month.

(b) Any such compensation (1) paid out of funds appropriated by, or furnished, pursuant to the provisions of any statute of the Territory or of the United States of America, solely for the relief of unemployment, or (2) paid out of any fund created by this chapter or by chapter 259A-1 in the form of public assistance or compensation paid by the department of public welfare to blind persons and other persons for work performed in their homes or in workshops, or (3) paid to employees of the Territory employed in the county of Kalawao, shall be exempt from the tax imposed by this section.

(c) Compensation received from the United States by members of the United States army, navy or marine corps,

who are in federal service on active duty with such army, navy or marine corps, or by members of the United States coast guard on active service, shall likewise be exempt. [L. 1933, c. 209, s. 3; R. L. 1935, Chap. IV, Appendix, s. 3; am. L. 1939, c. 238, s. 6; am. L. 1939, c. 241, s. 3; am. L. 1941, c. 213, pt. of s. 1.]

[Sec. 2148.04.] Sec. 4. **Employer to withhold and pay tax on compensation.** Any employer making payments to an employee of compensation shall deduct and withhold therefrom the amount of the tax imposed by this chapter in reference to such compensation and shall pay the amount so withheld for each month within twenty days after the close of such month to the collector of the taxation division in which the employer has his principal place of business, or to the commissioner at Honolulu if the employer has no place of business in the Territory. Any employer who violates any of the provisions of this section shall be guilty of a misdemeanor and shall also be liable to pay to the Territory the amount which he should have so withheld from the employee; provided that the employer may recover from such employee any amount which he has been required to pay and has paid to the Territory out of such employer's own funds under this provision. [L. 1933, c. 209, s. 4; R. L. 1935, Chap. IV, Appendix, s. 4; am. L. 1939, c. 252, pt. of s. 3; am. L. 1941, c. 213, pt. of s. 1.]

[Sec. 2148.05.] Sec. 5. **Employer to file return covering tax on compensation.** The employer shall, on or before the 20th day of each month, make a full, true and correct return showing all compensation covered by section 4 of this chapter paid by him during the preceding month, and showing the tax due and withheld thereon, which return shall be filed at the place prescribed in section 4 for payment of the tax and shall include such other information as shall be required or prescribed by the commissioner; provided, however, that, with respect to compensation paid out of public moneys, the commissioner in his discretion may prescribe special forms for, and different procedure and times for the filing of, such returns by employers paying such compensation, or may, upon such conditions and subject to such rules as he may prescribe from time to time, waive the filing of any such returns. Any employer who violates any of the provisions of this section shall be guilty of a misdemeanor. [L. 1933, c. 209, s. 5; R. L. 1935, Chap. IV, Appendix, s. 5; am. L. 1941, c. 213, pt. of s. 1.]

[Sec. 2148.06.] Sec. 6. **Taxes withheld by employer held in trust.** All taxes withheld by any employer under section 4 of this chapter shall be held in trust by him for the Territory and for the payment of the same to the collector in the manner

and at the times required by this chapter. [L. 1933, c. 209, s. 6; R. L. 1935, Chap. IV, Appendix, s. 6; am. L. 1941, c. 213, pt. of s. 1.]

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[Sec. 2148.07.] Sec. 7. **No cause of action against employer for withholding.** No employee shall have any right of action against his employer in respect of any moneys deducted from such employee's compensation in compliance or intended compliance with this chapter. [L. 1933, c. 209, s. 7; R. L. 1935, Chap. IV, Appendix, s. 7; am. L. 1941, c. 213, pt. of s. 1.]

[Sec. 2148.08.] Sec. 8. **Individual to file return of earned income when.** Any individual who is in receipt of compensation from an employer who does not have a place of business in the Territory and does not have an agent within the Territory responsible for making the returns, withholdings and payment of taxes on compensation required by this chapter, and every individual who is in receipt of any dividends from any foreign company, shall file a return for each month with, and pay the tax due under this chapter to, the collector of the division in which he resides or is at the time present, as may be required by rules of the commissioner, or, if he is not at the time within the Territory, then with and to the commissioner at Honolulu. Any individual who is in receipt of compensation from the United States or an instrumentality thereof shall be under the same duty as an individual who is in receipt of compensation from an employer who does not have a place of business in the Territory, unless the tax has been withheld from such compensation as provided by section 4 of this chapter. All such returns shall be filed, and the payments thereon shall be made, at the times and in the manner prescribed in said section 4, and each such return shall state the name of the individual filing the same, the name, residence and address of his employer, or of the foreign company paying the dividends, the total of all compensation or dividends received for the preceding month and the tax due thereon, and shall include such other and further information and be upon such form as the commissioner shall require or prescribe. Failure to comply with the provisions of this section shall constitute a misdemeanor. The tax commissioner, upon request of a taxpayer required by this section to make returns, may permit quarterly returns and payments of tax with respect to compensation, and annual returns and payments of tax with respect to dividends, and in granting such permission shall fix the date or dates for such filing of returns and payment of taxes. [L. 1933, c. 209, s. 8; R. L. 1935, Chap. IV, Appendix, s. 8; am. L. 1939, c. 241, pt. of s. 4; am. L. 1941, c. 213, pt. of s. 1.]

[Sec. 2148.09.] Sec. 9. **Tax on dividends.** There shall be assessed, levied, collected and paid for each month a tax, at the same rate per centum as shall be fixed for such month, pursuant to the provisions of sections 3 and 18 of this chapter as to compensation upon the amount of all dividends paid during the month by any company, local or foreign. [L. 1933, c. 209, s. 9; R. L. 1935, Chap. IV, Appendix, s. 9; am. L. 1939, c. 252, pt. of s. 3; am. L. 1941, c. 213, pt. of s. 1.]

[Sec. 2148.10.] Sec. 10. **Returns and withholding and payment of tax on dividends by local companies.** Every local company, before making any payment or distribution of dividends to its shareholders, shall deduct and withhold therefrom the amount of the tax imposed by this chapter in reference to such dividends and shall pay the amount so withheld to the collector of the taxation division in which the company has its principal place of business in the Territory or to the commissioner at Honolulu, as may be prescribed by regulations of the commissioner. Such company, on or before the 20th day of each month following the month in which there has been any payment of such dividends and withholding of the tax thereon, shall make a full, true and correct return showing all such dividends paid and the amounts withheld on account thereof during the preceding month, which return shall be filed at the place in this section prescribed for payment of the tax and shall include such other information as shall be required or prescribed by the commissioner. Any company violating any of the provisions of this section shall be guilty of a misdemeanor and shall also be liable to pay to the Territory the amount which it should have so withheld. [L. 1933, c. 209, s. 10; R. L. 1935, Chap. IV, Appendix, s. 10; am. L. 1939, c. 252, pt. of s. 3; am. L. 1941, c. 213, pt. of s. 1.]

[Sec. 2148.11.] Sec. 11. **Commissioner to prescribe forms, etc.** The commissioner shall prescribe the forms of all returns required to be furnished under the provisions of this chapter and may provide in such forms for the giving of such information as he may deem necessary or advisable. All information required by the form of any return must be included in the return by the person, employer or company responsible for making the same.

Every return shall be verified upon oath or affirmation or executed before two subscribing witnesses (as may be permitted by rules of the commissioner) by the employer or other person liable to make the return, or by someone authorized to do so in behalf of such person, all in compliance with rules prescribed by the commissioner; provided, that the commis-

sioner in any event may require that any particular return which has been executed before such subscribing witnesses be also verified by oath or affirmation, and it shall be the duty of the person liable to make such return, upon request of the commissioner, to verify, or cause to be duly verified, such return.

Every person who shall wilfully or knowingly make any false statement in any return, whether verified upon oath or affirmation, or executed before two subscribing witnesses, as provided in this section, shall be guilty of a misdemeanor. [L. 1933, c. 209, s. 11; R. L. 1935, Chap. IV, Appendix, s. 11; am. L. 1939, c. 252, pt. of s. 3; am. L. 1941, c. 213, pt. of s. 1.]

[**Sec. 2148.12.**] **Sec. 12. Commissioner to furnish blanks, etc.** The commissioner shall furnish all collectors and other officers charged with the administration of this chapter with books, blanks and stationery in such form and quantity as he shall deem proper and sufficient to effectuate the purposes of this chapter. [L. 1933, c. 209, s. 12; R. L. 1935, Chap. IV, Appendix, s. 12; am. L. 1941, c. 213, pt. of s. 1.]

[**Sec. 2148.13.**] **Sec. 13. Rules.** The commissioner shall prescribe and have printed all needful rules for the enforcement of this chapter and such rules so made shall have the force and effect of law if they be not in conflict with the express provisions of this chapter. Such rules shall also provide for the making of returns concerning, and the payment of, any taxes imposed by this chapter, in any situations not specifically covered by this chapter. [L. 1933, c. 209, s. 13; R. L. 1935, Chap. IV, Appendix, s. 13; am. L. 1941, c. 213, pt. of s. 1.]

[**Sec. 2148.14.**] **Sec. 14. Other provisions applicable.** All of the provisions of chapter 65 not inconsistent with the provisions of this chapter and which may appropriately be applied to the taxes, persons, circumstances and situations covered or affected by this chapter, including provisions granting administrative powers to the tax commissioner and providing for the assessment, levy and collection of income taxes, shall be applicable to the assessment, levy and collection of taxes under this chapter.

The provisions of section 2046, paragraph (d) of subsection 1, and any amendments thereof, with respect to penalties and interest, shall apply to the taxes imposed by this chapter. [L. 1933, c. 209, s. 14; R. L. 1935, Chap. IV, Appendix, s. 14; am. L. 1939, c. 213, s. 15; am. L. 1941, c. 213, pt. of s. 1.]

[**Sec. 2148.15.**] **Sec. 15. Penalties.** Any person convicted of any misdemeanor under the provisions of this chapter shall be

punished by fine of not more than one thousand dollars, or (if a natural person) by imprisonment for not more than one year, or both such fine and imprisonment.

If (a) any individual or other person liable, under the provisions of this chapter, to make and file a return of compensation or dividends received by such person, or (b) any employer or company liable, under the provisions of this chapter, to withhold any tax on compensation or dividends and make a return thereof and pay the same to the commissioner, shall fail, neglect or refuse to make and file such return within the time or in the manner and form prescribed, or shall decline to take oath or affirmation to such return if made, the commissioner may make a return for such person, employer or company from the best information obtainable and may levy and assess a tax upon the amount of compensation or dividends shown by such return (and, in the case of such employer or company, determine the amount of such tax and assess the amount of the same against such employer or company), and, in addition to the tax and as a part thereof when finally assessed, a penalty not to exceed twenty-five per centum of the amount of the tax may, in the discretion of the commissioner, be added to and become a part of the tax; such assessment shall be presumed to be correct until and unless, upon an appeal duly taken as provided in this chapter, the contrary shall be clearly proved by such person, employer or company, and the burden of proof upon such appeal shall be on such person, employer or company to disprove such assessment. Notice of assessment shall be given, and an appeal therefrom may be taken, in the manner and within the time provided in sections 2042, paragraph 2, and 2045. [L. 1933, c. 209, s. 15; R. L. 1935, Chap. IV, Appendix, s. 15; am. L. 1939, c. 252, pt. of s. 3; am. L. 1941, c. 213, pt. of s. 1.]

[Sec. 2148.16.] Sec. 16. **Additional taxes, appeals.** Sections 2042, paragraph 2, and 2045 shall apply in the same manner and to the same extent, as nearly as may be, to assessments and returns made, compensation or dividends taxable, and persons assessed or taxed, under this chapter, as in cases of income taxes under chapter 65. The commissioner by rules shall provide for the adaptation, as nearly as may be, of the procedure set forth in said sections to persons and situations affected by or arising under the provisions of this chapter. [L. 1933, c. 209, s. 16; R. L. 1935, Chap. IV, Appendix, s. 16; am. L. 1941, c. 213, pt. of s. 1.]

[Sec. 2148.17.] Sec. 17. **Disposition of proceeds; public welfare fund.** There is hereby created in the territorial treas- 59 Oct 100
A 62 - 101

ury a special fund to be designated as 'public welfare fund.' All taxes collected under this chapter shall be paid into the territorial treasury, at such times, as soon as practicable after collection, as the territorial treasurer shall direct, and be credited to said fund.

Any moneys in said fund shall be available for expenditure by the department pursuant to chapters 259A and 259A-1 for any of the purposes set forth in said chapters; provided that the total of all expenditures from said fund for any six-month period (January 1 to June 30, or July 1 to December 31) shall not exceed five hundred thousand dollars, unless such excess expenditure shall be expressly authorized by the governor.

In the event that at any time there shall be insufficient moneys in the public welfare fund to meet the current needs of the department, the territorial treasurer, with the approval of the governor, may make temporary advances from time to time to said fund from the general fund of the Territory, to be reimbursed to said general fund thereafter when moneys therefor are available in the public welfare fund, such temporary advances, however, not to exceed at any time such total amount as shall be estimated to be repayable out of the public welfare fund from collections for the next ensuing three months following the month in which the last of such advances was made, provided that, in the event the governor shall find that an emergency exists necessitating such action in order to meet the needs of the department during any six-month period, the treasurer, with the approval of the governor, shall be authorized to make non-refundable transfers from the general fund to the public welfare fund in amounts not to exceed, in the aggregate, fifty thousand dollars for any such six-month period. [L. 1933, c. 209, s. 17; R. L. 1935, Chap. IV, Appendix, s. 17; am. L. 1935, c. 135, pt. of s. 1; am. L. 1941, c. 213, pt. of s. 1.]

[Sec. 2148.18.] Sec. 18. Increase or decrease of rate. On or before the 15th day of June and December in each year, the tax commissioner shall prepare an estimate of the probable receipts from said tax for the six-month period commencing on the first day of the following month, and if the estimated receipts for such six-month period, together with any unexpended surplus of such tax collections for the preceding period which will be available for expenditure during said six-month period, shall be less than five hundred thousand dollars, the tax commissioner shall, with the approval of the governor, (who, before giving such approval, shall satisfy himself that such increase is necessary to safeguard the public welfare program under all of the circumstances, taking into consideration the non-refundable transfer of fifty thousand dollars from the general

fund for said six-month period authorized by section 17) increase the rate of the tax to six-tenths of one per centum, and such rate shall thereupon continue until and unless reduced in accordance with this chapter. If such estimated receipts, together with such surplus, if any, shall exceed five hundred thousand dollars for such six-month period, then the tax commissioner, with the approval of the governor, shall reduce said rate to five-tenths of one per centum, and such rate shall thereupon continue until and unless increased in accordance with this chapter.

[Sec. 2148.19.] Sec. 19. **Additional funds.** The department may accept and deposit with the treasurer of the Territory any additional funds which may be provided by the United States government, the Territory or any county or any other source, either to supplement the fund provided by taxation under this chapter or for use in carrying out the purposes of chapters 259A and 259A-1, or for costs of administration, or for any of said purposes, in each case upon such terms and conditions as the department, in its discretion, may approve.

Donations or portions thereof or grants in aid, or portions thereof, made by the government of the United States of America may be deposited by said department in the public welfare fund hereinabove created, provided that such action with reference to federal funds be approved by the social security board. [L. 1933, c. 209, s. 22; R. L. 1935, Chap. IV, Appendix, s. 22; am. L. 1941, c. 213, pt. of s. 1.]

[Sec. 2148.20.] Sec. 20. **Constitutionality; construction.** The tax imposed by this chapter shall not apply to any compensation or dividends which, under the constitution or laws of the United States, cannot legally be so taxed.

If for any reason said tax or any provision of this chapter is held invalid as applied to any person or class of persons, or any kind or kinds of compensation or dividends or portion thereof, that shall not invalidate such tax or provision as applied to any other person or class of persons, or any other kind or kinds of compensation or dividends or portion thereof.

If any section, subsection, sentence, clause or phrase of this chapter is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this chapter. The legislature hereby declares that it would have enacted this chapter and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be held unconstitutional or invalid."

[L. 1933, c. 209, s. 23; R. L. 1935, Chap. IV, Appendix, s. 23; am. L. 1941, c. 213, pt. of s. 1.]

Section 2. All collections of the taxes imposed by said chapter IV of the appendix to said Revised Laws, as amended, which shall have accrued or been collected prior to the effective date of this Act, shall be transferred to or paid into the public welfare fund for expenditure by the department of public welfare.

Section 3. This Act shall not be construed as affecting in any manner, to the detriment of the Territory, any tax liens, taxes, interest, fines, penalties, forfeitures, or other liabilities or obligations, existing, due or incurred prior to the effective date of this Act, nor as affecting the liability of any person to prosecution for any misdemeanor or other criminal offense committed prior to the effective date of this Act under any statutes hereby repealed or superseded; and all such liens, taxes, interest, fines, penalties, forfeitures, liabilities, obligations, misdemeanors, and other offenses may be enforced, collected, prosecuted or punished, as the case may be, in the same manner, to the same extent and subject to the same conditions, as if this Act had not been passed.

Section 4. This Act shall take effect only in the event that Senate Bill No. 362 of the current session of this legislature shall become law, in which event this Act shall take effect on July 1, 1941.

(Approved May 13, 1941.) **S.B. 363, Act 213.**

[Note: S.B. 362 is Act 296, *infra*, page 328.]

CHAPTER 70. SPECIFIC TAXES.

[Sec. 2150 amended, Secs. 2153, 2154 and 2155, repealed, and Sec. 2156 amended, by Act 268, *infra*, page 139.]

[A-74] An Act Amending Section 2153 of the Revised Laws of Hawaii 1935, Relating to the Dog Tax, by Authorizing the Board of Supervisors of the County of Maui to Divert Its Share of Said Tax Under Certain Conditions.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2153** of the Revised Laws of Hawaii

MOTOR VEHICLE WEIGHT TAX.

SERIES A-74.—ACT 37]
SERIES A-75.—ACT 193]

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1935, is hereby amended by adding thereto a new paragraph, reading as follows:

“The board of supervisors of the County of Maui may pay, from any funds accruing to it under this section or section 2155, to and for the use of any society or organization approved by it which shall be formed for the prevention of cruelty to animals and which shall maintain a suitable pound or pounds in said county for the care and disposition of dogs pursuant to the provisions of section 2155, such sums as the said board shall determine to be proper compensation for assistance rendered by such society or organization in carrying out the provisions of said section 2155.”

Section 2. This Act shall take effect upon its approval.

(Approved April 16, 1941.) **H.B. 218, Act 37.**

[See Act 268, infra, page 139, repealing **Sec. 2153.**]

MOTOR VEHICLE WEIGHT TAX.

[A-75] An Act to Amend Section 2157 of the Revised Laws of Hawaii 1935, Relating to the Motor Vehicle Weight Tax.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Subsection 3 of **section 2157** of the Revised Laws of Hawaii 1935, as amended in toto by Act 214, Series A-55, of the Session Laws of Hawaii 1937, is hereby further amended by substituting for the words “three months”, in the second and third lines of said subsection as the same appears in said Session Laws, the words “nine months”.

Section 2. This Act shall take effect upon its approval.

(Approved May 9, 1941.) **H.B. 470, Act 193.**

Title X. TREASURY.

CHAPTER 71. TREASURY DEPARTMENT.

[Sec. 2213, Deposits for sinking fund. Repealed by Act 230, infra, page 431.]

CHAPTER 72. BANK EXAMINER.

[A-76] An Act to Amend Section 2220 of the Revised Laws of Hawaii 1935, Relating to the Department of the Bank Examiner, to Require Bonds of Certain Officers and Employees Therein.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2220** of the Revised Laws of Hawaii 1935, is hereby amended by adding at the end thereof the following:

“Any provision of Section 135 to the contrary notwithstanding, the following bonds shall be required:

Deputy bank examiner.....	\$50,000.00
Assistant bank examiners, each.....	10,000.00
Clerks in the bank examiner's department, each	2,500.00.”

Section 2. This Act shall take effect upon its approval.

(Approved April 14, 1941.) **S.B. 27, Act 25.**

Title XI. COUNTIES— GENERAL.

CHAPTER 77. EMINENT DOMAIN.

Amended 1363
By Act 53 of 1941

[B-77] An Act to Amend Section 2300 of the Revised Laws of Hawaii 1935, as Amended by Act 184 of the Session Laws of Hawaii 1937, Relating to Eminent Domain.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2300 of the Revised Laws of Hawaii 1935, as amended by Act 184 of the Session Laws of Hawaii 1937, is hereby further amended by changing the period at the end of said section, as amended by said Act 184, to a semicolon and adding at the end of said section the following:

“provided, however, that when any such excess property shall be disposed of by any county it shall be first offered to the abutting owner or owners for a reasonable length of time and at a reasonable price and if such owner or owners fail to take the same then it may be sold at public auction.”

Section 2. This Act shall take effect upon its approval.

(Approved April 21, 1941.) H.B. 72, Act 53.

CHAPTER 78. GENERAL PROVISIONS.

REPORTS BY AUDITORS AND CONTROLLER.

[B-78] An Act Amending Section 2313, Revised Laws of Hawaii 1935, Relating to Reports by Controller and Auditor.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2313, Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“Sec. 2313. Reports by controller and auditors. It shall be the duty of the controller of the city and county of Honolulu and of the auditor of each of the counties to prepare and submit to the board of supervisors, transmit to the auditor of the

Territory, and publish in a newspaper of general circulation in the city and county or county, immediately following the close of each year, a statement of income and expenditure by funds, showing the principal sources of revenue, the function or purpose for which expenditures were made, together with a consolidated statement showing similar information for all funds; also a statement showing the balance in each fund at the beginning of the year, plus the receipts minus the disbursements, and the balance on hand at the close of the year after deducting outstanding warrants and vouchers.

He may publish totals of expenses made by administrative departments for administration and executive purposes.” [L. 1913, c. 21, s. 1; am. L. 1917, c. 205, s. 1; am. L. 1927, c. 46, s. 1; R. L. 1935, s. 2313; am. L. 1941, c. 248, s. 1.]

Section 2. This Act shall take effect from and after the date of its approval.

(Approved May 14, 1941.) **S.B. 42, Act 248.**

EXCESSIVE EXPENDITURES, EXCEPTIONS.

[B-79] An Act to Amend Section 2315 of the Revised Laws of Hawaii 1935, Relating to Excessive Expenditures of County and City and County Funds.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2315 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“Sec. 2315. Excessive expenditures, penalty. No board of supervisors or other board, committee, department, bureau, officer or employee of any county or city and county shall expend, or aid or participate in expending, during any period of time for any purpose, except for and in the exercise by the county or city and county of the power of eminent domain, any sum in the absence of an appropriation for such purpose for such period, or any sum in excess of an appropriation, if any, for such purpose for such period, or incur, authorize or contract, or aid or participate in incurring, authorizing or contracting, during any fiscal year, liabilities or obligations, whether payable during such fiscal year or not, for any or all purposes, except for and in the exercise by the county or city and county of the power of eminent domain, in excess of the amount of money available for such purposes for such

FRANCHISE FEES.
RELIEF FOR JUNIOR POLICE.

SERIES B-79.—ACT 247]
SERIES B-80.—ACT 314]
SERIES B-81.—ACT 43]

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county or city and county during such year, and any person who shall violate any provision of this section shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or by both fine and imprisonment." [L. 1911, c. 72, s. 1; R. L. 1935, s. 2315; am. L. 1941, c. 247, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 14, 1941.) **S.B. 41, Act 247.**

FRANCHISE FEES, DISPOSITION OF.

[B-80] An Act Amending Section 2316, Revised Laws of Hawaii 1935, as Amended by Act 130, Session Laws of Hawaii 1939, Relating to the Road Fund and the Disposition of Funds Received Under the Provisions of Franchises.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2316**, Revised Laws of Hawaii 1935, as amended by Act 130, Session Laws of Hawaii 1939, is hereby further amended by deleting the period at the end thereof and inserting a semicolon in lieu thereof and the following words:

"and provided, further, that in the city and county of Honolulu, the board of supervisors may provide for the maintenance of the Honolulu Traffic Safety Commission, and for other purposes and functions connected with the prevention of automobile accidents and preservation of safety upon the highways and streets in the city and county of Honolulu, and for the establishment and maintenance, under the direction of the police department, of one or more vehicle testing stations, from said moneys."

Section 2. This Act shall take effect upon its approval.

(Approved May 21, 1941.) **S.B. 52, Act 314.**

JUNIOR POLICE, RELIEF FOR.

[B-81] An Act Authorizing the Counties and the City and County to Provide for Financial Protection in Cases of Children Injured or Dying From Injuries Suffered While Performing Duties as Junior Police.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 2322C.] Section 1. **[Junior police, aid to for injuries, death.]** The board of supervisors of each county and of the city and county is hereby authorized to make adequate pro-

vision, either by procuring insurance therefor, or by ordinance assuming liability on the part of the county or city and county therefor, for children who may be injured, and for the defrayment of funeral expenses of children dying from injuries received, while performing duty as junior police officers in directing traffic, so that the cost of medical care and hospitalization of any such child so injured will be met in a sum not to exceed \$500.00, and the funeral expenses of any such child dying from injuries received while performing such duty will be met in a sum not to exceed \$250.00.

[Sec. 2322D.] Section 2. **[Not to bar other rights.]** The right of any such child or of any other person lawfully claiming damages by reason of injuries to, or death of such child, shall in nowise be affected by the provisions of this Act.

Section 3. This Act shall take effect upon its approval.

(Approved April 18, 1941.) **H.B. 199, Act 43.**

Am., S. 883 S.
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POLICE OFFICERS, COUNSEL FOR.

[B-82] An Act to Provide Legal Representation for Police Officers Prosecuted or Sued for Acts Done in Performance of Duty.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 2323.] Section 1. **[Police officers, counsel for.]** Whenever any police officer shall be prosecuted for any crime or sued in any civil cause for acts done in the performance of his duty as such police officer, he shall be represented and defended, (a) in such criminal proceeding by an attorney to be employed and paid by the board of supervisors of the county or city and county in which such officer is serving, and (b) in such civil cause by the city and county attorney or county attorney, as the case may be, of the county or city and county in which such police officer is serving.

[Sec. 2324.] Section 2. **[Determination as to whether acts were in scope of duty.]** The determination of whether the acts of such police officer, for which he is being prosecuted or sued, were done in the performance of his duty, so as to entitle him to be represented by counsel provided by the counties or by the city and county, shall be made, in the case of a police officer employed by the City and County of Honolulu, by the police commission of said city and county, and in the case of a police officer employed by the County of Maui, by the police

commission of said county, and in the case of a police officer employed by either the County of Kauai or the County of Hawaii, by the board of supervisors of their respective counties, and such determination shall be conclusive for such purpose only.

Section 3. This Act shall take effect upon its approval.

(Became effective May 1, 1941, without the Governor's signature.)

H.B. 247, Act 135.

CHAPTER 80.

LICENSES.

AUCTION.

[B-83] An Act to Amend Chapter 80 of the Revised Laws of Hawaii 1935, as Amended, Relating to Licenses, by Adding Thereto a New Section to Be Known as Section 2422A, Relating to Sales by Auctioneers.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 80 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding after section 2422 thereof, a new section to be numbered section 2422A, to read as follows:

"Sec. 2422A. Place of public auction room. It shall be unlawful for any licensed auctioneer, for the purpose of selling, or exposing for sale, property other than the property duly listed on the statement filed with the county or city and county treasurer, as required by section 2418, to establish a public auction room at a location on which a closing-out sale is in progress or has been completed, at any time within a period of sixty days from and after the completion of any such closing-out sale."

Section 2. This Act shall take effect upon its approval.

(Approved May 3, 1941.) **S.B. 394, Act 155.**

AUTOMOBILE DEALERS AND SALESMEN.

[B-84] An Act Amending Act 258 of the Session Laws of Hawaii 1939, Relating to the Licensing of Automobile Dealers and Salesmen.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 258, Series B-56, of the Session Laws of Hawaii 1939, is hereby amended in the following respects:

(a) By amending that certain paragraph in section 1 [**Sec. 2432A.**] thereof, defining "motor vehicle", to read as follows:

"'Motor vehicle' includes any vehicle, motor vehicle or truck as defined in chapter 70 of the Revised Laws of Hawaii 1935, as amended, with the exception of motor scooters, motorcycles, tractors, and trailers."

(b) By amending that certain paragraph in said section 1 [**Sec. 2432A.**], defining "dealer", by inserting between the words "used" and "for", in the 4th line of said paragraph, the word "primarily".

(c) By amending the first sentence of that certain paragraph of said section 1 [**Sec. 2432A.**], defining "salesman", to read as follows:

"'Salesman' includes any person as hereinbefore defined who for a commission, compensation or other valuable consideration is employed by a dealer to sell, display and offer for sale or deal in motor vehicles; provided that, in the City and County of Honolulu, 'salesman' shall mean any such person who is so employed as his principal occupation."

(d) By amending the second paragraph of section 7 [**Sec. 2432G.**] thereof to read as follows:

"The annual fee for a dealer's license in the City and County of Honolulu shall be fifty dollars for dealers engaged in the sale of new and used motor vehicles and twenty-five dollars for dealers engaged exclusively in the sale of used motor vehicles, and the annual fee for a salesman's license in said city and county shall be five dollars. The annual fee for a dealer's license in each of the Counties of Hawaii, Maui and Kauai shall be twenty-five dollars for dealers engaged in the sale of new and used motor vehicles, and twelve dollars and fifty cents for dealers engaged exclusively in the sale of used motor vehicles; and the annual fee for a salesman's license in said counties shall be two dollars. In all cases the fee shall accompany the application for license." [See Act 33, following this Act, also amending **Sec. 2432G.**]

(e) By amending section 22 [**Sec. 2432V.**] thereof, by adding at the end of said section the following:

“The boards of supervisors of the several counties, at the request of the respective licensing boards, shall appropriate any moneys so paid into the road fund for the use of the respective county treasurers for the employment of additional temporary clerks and other assistants in order to facilitate the prompt completion of all motor vehicle registrations under the provisions of Part 2, of chapter 83, Revised Laws of Hawaii 1935, as amended.”

Section 2. This Act shall take effect on July 1, 1941.

(Approved May 21, 1941.) **H.B. 83, Act 315.**

[B-85] An Act Amending Section 2432G of the Revised Laws of Hawaii 1935, Relating to Licenses of Automobile Salesmen.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2432G** of the Revised Laws of Hawaii 1935, as enacted by Act 258, Series B-56, of the Session Laws of Hawaii 1939, is hereby amended by changing the period at the end of the second sentence of the third paragraph thereof to a semicolon and adding thereafter the following:

“provided, however, that in any such case, a new license may be issued upon payment of a fee of twenty-five cents (\$0.25) which new license shall continue in force for the unexpired term of the original license, unless sooner suspended or revoked.”

Section 2. This Act shall take effect upon its approval.

(Approved April 16, 1941.) **H.B. 167, Act 33.**

[Sec. 2432G also amended by Act 315, supra, page 132.]

BUTCHER; BEEF, PORK.

[B-86] An Act to Amend Section 2436 of the Revised Laws of Hawaii 1935, Relating to Slaughter of Cattle and Swine, Requiring Unlicensed Persons to Secure Permits Before Slaughtering Cattle, and Prescribing Penalties for Violations.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2436 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“Sec. 2436. Fee to slaughter and sell.

1. The annual fee for a license (a) to slaughter cattle and sell beef, or (b) to slaughter swine and sell pork, shall be ten dollars for each in each taxation district.

2. Subject to the provisions of this section, any person may slaughter up to twelve head of cattle per year and sell such beef, or slaughter up to twelve swine per year and sell the pork, without a license therefor, provided such cattle or swine are of his own raising, and slaughtered on his own premises; but such person must comply with any county ordinances relating thereto and must comply with such rules and regulations of the board of health as may apply.

3. Any person so slaughtering and selling beef without a license shall keep a full and accurate record concerning every animal killed, covering all the particulars mentioned in section 2437.

4. No person, who is not licensed to slaughter cattle and sell beef, shall slaughter any cattle for the purpose of selling the beef thereof, unless such person shall first have signed an application therefor and obtained thereon the written approval of a police officer, any agent of the board of health or any territorial veterinarian. Each such officer is authorized to approve any such application upon being satisfied that all of the items of information required by section 2437 are correctly set forth in such application, except that such information may be anticipatory as to acts not yet consummated. All such applications shall be made in triplicate, one to be retained by the applicant, and two to be retained by the approving officer, who shall promptly file one of such copies in the office of the sheriff or chief of police of the county.

It shall be unlawful for any such person to set forth in any such application any material statement which is false in any particular, or to butcher any cattle for the purpose of selling the meat thereof without first receiving such permit; provided that where, due to some unanticipated emergency, it is necessary to slaughter any animal, as, for instance, where an animal is accidentally injured and must be killed, it shall not be necessary to secure such permit before killing such animal, but all of the facts and circumstances shall be reported, by the owner or other person responsible for such killing, to a police officer, agent of the board of health or territorial veterinarian, within twenty-four hours thereafter.

5. Any person violating any provision of this section or of this subtitle shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than \$1,000.00, or imprisonment of not more than one year, or

both." [L. 1896, c. 64, s. 49; am. L. 1915, c. 26, s. 1; am. L. 1917, c. 158, s. 1; am. L. 1932, 2d, c. 66, s. 2; R. L. 1935, s. 2436; am. L. 1941, c. 208, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 10, 1941.) **H.B. 55, Act 208.**

EXPLOSIVES, SALE OF.

[Secs. 2457 to 2461 repealed by Act 326, supra, page 88.]

CHAPTER 80 A. DOGS.

[B-87] An Act to Provide for the Licensing and Regulation of Dogs in the Several Counties, Providing Fines and Penalties for Violation of the Act, to Amend Sections 2150 and 2156, Revised Laws of Hawaii 1935, and to Repeal Sections 2153, 2154 and 2155, Revised Laws of Hawaii 1935, Relating to the Tax on Dogs.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 2535.] Section 1. **Definitions.** Whenever used in this Act, unless the context otherwise requires:

"Treasurer" shall mean the treasurer of any county of the Territory of Hawaii.

"Owner" shall include every person owning, harboring or keeping a dog.

"Officer" shall mean any high sheriff, sheriff, deputy, any member of a police force and dog wardens of the several counties of the Territory.

"Unlicensed dog" shall mean any dog for which the license for the current year has not been paid or to which the tag provided for in this Act is not attached.

[Sec. 2535A.] Section 2. **License required.** It shall be unlawful for any person to own or harbor a dog unless such dog is licensed as provided by this Act; provided, however, that this Act shall not apply to dogs under the age of three months which do not run at large, dogs in quarantine and dogs brought into the Territory exclusively for the purpose of entering the same in a dog show or dog exhibition and not allowed to run at large.

[Sec. 2535B.] Section 3. License fee. Any person owning or having the custody or control of any dog shall pay an annual license fee of one dollar for each dog, which fee shall be paid to the treasurer of the county in which the dog is owned, kept or controlled. The license fee shall be due and payable on January 2 of each year and must be paid before March 1 of each year, or within thirty days after the exemption ceases in the case of dogs becoming subject to the provisions of this Act. If such fee is not paid before March 11th of each year, or on any subsequent day when due, a penalty of ten per cent thereof shall be added to and become a part of the fee.

The full amount of such fee shall be paid for any fraction of any year for which a license is issued.

All moneys received by the treasurer under the provisions of this Act shall be paid into the general fund of such county.

[Sec. 2535C.] Section 4. Issuance of license and tags. Upon the receipt of the license fee the treasurer shall issue to the person paying the fee a license stating the following: (1) the name and address of the person to whom such license is issued; (2) the year for which such license is paid; (3) the date of payment; (4) a description of the dog for which such license is issued, and (5) the number of the metal tag issued for such dog.

The treasurer shall at the same time issue and deliver to such person a metal tag of such form and design as he may designate with a serial number and the year for which it is issued plainly inscribed thereon, charging therefor the sum of ten cents, which tag shall be attached to a collar around the neck of the dog for which said license has been issued.

[Sec. 2535D.] Section 5. Removal and imitation of dog tags. It shall be unlawful for any person to remove any such tag from any dog not owned by him or under his control, or to place on any dog any such license tag not issued as herein provided, or to make or have in possession or to place on a dog any counterfeit or imitation of any license tag provided for in this Act.

[Sec. 2535E.] Section 6. Lost dog tags. If any license tag shall be lost or stolen, the person to whom such tag was issued shall be entitled to receive a duplicate thereof by presenting to the treasurer who issued the license the original license and satisfactory proof that such tag was lost or stolen. The treasurer shall issue a properly numbered duplicate tag, charging therefor the sum of ten cents.

[Sec. 2535F.] Section 7. Seizure of unlicensed dogs. It

shall be the duty of every officer to seize any unlicensed dog found running at large or found upon any public highway, street, alley, court, place, square, or grounds, or upon any unfenced lot, or not within a sufficient enclosure, whether in the immediate presence of the owner or otherwise, and to confine it in a pound or any suitable enclosure for a period of forty-eight hours, during which time it shall be subject to redemption by its owner by payment of the license due, if any, and a penalty of fifty cents. If not so redeemed, such dog shall be sold by the officer for the amount of the license and penalty due, or as much more as can be obtained therefor, and if not so sold it shall be humanely destroyed. The owner of any unlicensed dog impounded and not claimed within forty-eight hours as provided in this section, may redeem such dog at any time before sale or destruction of same by paying to the officer, in addition to the amount of the license and penalty, the sum of twenty-five cents per day for the number of days over two days such dog was impounded. Of the money so received the amount of the license fee shall be paid to the treasurer and the balance shall be retained by the officer to defray the expenses of collecting, keeping and feeding such dog.

[Sec. 2535G.] Section 8. Redemption of dog after sale. The owner of any dog which has been seized and sold as provided in this Act may, at any time within thirty days after such sale, redeem the same from such purchaser by paying to him the amount of the purchase price paid by the purchaser and the sum of twenty-five cents per day for the number of days from the date of sale to and including the date of such redemption.

[Sec. 2535H.] Section 9. Stray dogs. It shall be the duty of every person who shall take into his possession any stray dog to immediately notify the dog warden and to release such dog to the dog warden upon demand. If there be attached to such dog a license tag for the then current year, the dog warden shall notify in writing the person to whom such license was issued, at the address given in said license certificate, and shall, upon demand made within twenty-four hours thereafter, and without charge, release such dog to such person; provided, however, that if no person lawfully entitled to such dog shall, within nine days after the date of giving said notice, claim such dog, such dog may be sold or destroyed by the dog warden in the manner provided in section 7 for unlicensed dogs.

[Sec. 2535I.] Section 10. Redemption of stray licensed dogs. The owner of any licensed dog impounded and not

claimed within twenty-four hours as provided in section 9, may redeem such dog at any time before the sale or destruction of same by paying to the dog warden the sum of twenty-five cents per day for the number of days such dog was impounded.

[Sec. 2535J.] Section 11. **Destruction of diseased or unfit dogs.** All dogs taken into the custody of the dog warden which by reason of age, or disease, or other cause, are unfit for further use or are dangerous to keep impounded, may be forthwith humanely destroyed by the dog warden.

[Sec. 2535K.] Section 12. **Female dogs.** It shall be unlawful for the owner of any female dog, licensed or unlicensed, to suffer or permit it to run at large while such dog is in the copulating season.

[Sec. 2535L.] Section 13. **Pounds and dog wardens.** The board of supervisors of each county may establish and maintain pounds for the impounding of dogs under the provisions of this Act, and may provide for the appointment and compensation of dog wardens who shall have all the powers of a sheriff or police officer in carrying out the provisions of this Act.

[Sec. 2535M.] Section 14. **Contracts for seizing and impounding dogs.** Any county may contract with any society or organization formed for the prevention of cruelty to animals, or similar dog protective organization, for the seizure and impounding of all unlicensed dogs and for the maintenance of a shelter or pound for unlicensed dogs, and for lost, strayed and homeless dogs, and for the destruction or other disposition of seized dogs not redeemed as provided in this Act. The county may prescribe in the contract the manner in which such work is to be done by such society or organization and it may also direct the disposition to be made of all dogs seized pursuant to the provisions of this Act.

[Sec. 2535N.] Section 15. **Wrongful interference with duties of officers.** It shall be unlawful for any person to resist or obstruct any officer in the exercise of his duties as provided in this Act.

[Sec. 2535O.] Section 16. **Unlawful disposition of impounded dogs.** It shall be unlawful for any officer to knowingly sell or give any impounded dog to any person, firm, corporation, association, medical college or university for the purpose of animal experimentation.

[Sec. 2535P.] Section 17. **Saving clause.** A dog taxed

under laws existing when this Act takes effect shall not be required to be licensed under this Act until the expiration of the year for which the tax is paid.

[Sec. 2535Q.] Section 18. Penalty for violation. Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than fifty dollars.

Section 19. **Section 2150**, Revised Laws of Hawaii 1935, is hereby amended by deleting at the end of said section the words "and dog tax".

Section 20. Section 2156, Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 2156. False tag, bicycle, carriage, etc., penalty. Any person who shall use a tag not furnished in accordance with the provisions of sections 2151 and 2152, or shall use any tag described in any such section for two consecutive years, or who shall counterfeit any such tag or who shall fraudulently remove such a tag from any bicycle or any such vehicle, shall be guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars."

Section 21. **Sections 2153, 2154 and 2155**, Revised Laws of Hawaii 1935, are hereby repealed.

Section 22. This Act shall take effect upon its approval.

(Approved May 16, 1941.) **S.B. 383, Act 268.**

CHAPTER 82. INTOXICATING LIQUOR.

[B-88] An Act to Amend Chapter 82 of the Revised Laws of Hawaii 1935, as Amended, Relating to Intoxicating Liquor, by Adding a New Section Thereto to be Known as Section 2579-A, Providing for the Service of Subpoenas by Inspectors and for the payment of Witnesses' Fees.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 82 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding a new section thereto to be known as section 2579-A and to read as follows:

“Sec. 2579-A. Service of subpoenas by inspectors; witnesses’ fees. Any inspector shall have authority to serve any subpoena issued by the commission.

Every witness attending or testifying at any hearing of the commission in response to a subpoena issued by it shall be paid the sum of two dollars for each day’s attendance at such hearings and twenty cents for each mile actually and necessarily traveled, in going only. If a witness is subpoenaed by direction of the commission, his fees shall be paid out of any funds which may be set aside for the expenses of the commission and, if the witness is subpoenaed on behalf of any interested party, his fees shall be paid by such party.”

Section 2. This Act shall take effect upon its approval.

(Approved May 3, 1941.) **S.B. 82, Act 150.**

CHAPTER 82 A.

MOTOR SCOOTERS.

[B-89] An Act Regulating the Use of Motor Scooters.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 2645.] Section 1. [Unlawful for two to ride on, exceptions.] It shall be unlawful for any owner or operator of a motor scooter, as hereinafter defined, to permit or allow any person other than the operator thereof to ride thereon, unless the same is equipped with:

- (a) A seat at least eighteen inches in length, with hand and foot rests provided for the passenger; or
- (b) A separate passenger’s seat, hand and foot rests; or
- (c) A sidecar designed for the carriage of passengers.

[Sec. 2645A.] Section 2. [Regulation of exhaust pipe and muffler.] It shall be unlawful for any person to drive upon the public highways any motor scooter, as hereinafter defined, the exhaust pipe or muffler of which has been so changed from the factory design as to increase the volume or audibility of the explosions within the motor thereof.

[Sec. 2645B.] Section 3. [Motor scooter defined.] For the purposes of this section a motor scooter shall mean any vehicle hung low on two or more wheels, propelled by a gasoline engine of not more than ten horsepower.

[Sec. 2645C.] Section 4. [Penalty for violation.] Whoever shall be convicted of violating any of the provisions hereof shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

Section 5. This Act shall take effect upon its approval.

(Approved May 1, 1941.) **H.B. 446, Act 140.**

CHAPTER 83.

MOTOR VEHICLES: CHAUFFEUR'S LICENSE; REGISTRATION.

PART 2. REGISTRATION.

[B-90] An Act to Amend Section 2670, Revised Laws of Hawaii 1935, as Amended, Relating to Registration of Motor Vehicles.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2670** of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by substituting for the date "March 1" in the first paragraph thereof, the date of "March 11".

Section 2. **Section 2670** of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending the second paragraph thereof to read as follows:

"The provisions of this subtitle shall be administered by the treasurer in conjunction with the requirements of section 2157 and shall entail no additional expense or charge to the person registering the ownership of a motor vehicle other than as provided by law and the cost of container provided in section 2669; provided, however, that for each new certificate of ownership issued by the treasurer under the provisions of section 2671, the treasurer shall charge a fee of one dollar, which fee shall be deposited in the general fund.

Section 3. This Act shall take effect upon its approval; provided, however, that section 1 of this Act shall only become effective in the event Senate Bill No. 258 becomes law.

(Approved May 19, 1941.) **S.B. 411, Act 298.**

[Note: S.B. 258 did not become law.]

[B-91] An Act to Amend Section 2672 of the Revised Laws of Hawaii 1935, Relating to Registration of Automobiles.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2672** of the Revised Laws of Hawaii 1935, is hereby amended by adding a proviso to paragraph 3 thereof reading as follows:

“Provided the treasurer shall charge and collect annually from each manufacturer or dealer as aforesaid the sum of five dollars (\$5.00) for each pair of automobile number plates, or single plates for other vehicles, issued by him.”

Section 2. This Act shall take effect after the date of its approval.

(Approved May 12, 1941.) **S.B. 194, Act 211.**

CHAPTER 85. WEIGHTS AND MEASURES.

[B-92] An Act to Amend Section 2720 of the Revised Laws of Hawaii 1935, as Amended, Relating to Weights and Measures.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2720 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended to read as follows:

“**Sec. 2720. Fees.** The charges for testing and certification shall be as follows:

For scales:

From one to thirty pounds weight capacity.....	\$.50
Over thirty pounds to three hundred pounds weight capacity	1.25
Over three hundred pounds to one thousand pounds weight capacity	2.00
Over one thousand pounds to six thousand pounds weight capacity	2.50
Over six thousand pounds to sixteen thousand pounds weight capacity.....	3.50
Over sixteen thousand pounds to thirty thousand pounds weight capacity.....	5.00

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Over thirty thousand pounds to sixty thousand pounds weight capacity.....	7.50
Over sixty thousand pounds weight capacity.....	10.00
For measures of extension.....	.50
For pump or pumping measure or appliance.....	.50
For any other instrument used for weighing or measuring and not specifically mentioned herein.....	.50.

No charge shall be made for more than two inspections in any one year.

All fees collected under the provisions of this chapter shall be paid into the treasury of the county or city and county for which the inspection, testing and sealing is made, as a municipal realization." [L. 1921, c. 234, s. 11; R. L. 1935, s. 2720; am. L. 1935, c. 98, s. 1; am. L. 1941, c. 269, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 16, 1941.) **S.B. 392, Act 269.**

Title XII. COUNTY GOVERNMENT.

CHAPTER 86. GOVERNMENT OF KAUAI, MAUI, HAWAII AND KALAWAO.

COUNTY BOUNDARIES.

[B-93] An Act to Amend Section 2801 of the Revised Laws of Hawaii 1935, Relating to the City of Hilo.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2801 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 2801. **Geographical limits.** The city of Hilo shall consist of all of that portion of the district of South Hilo, county of Hawaii, which is described as follows: Bounded on the south by the district of Puna; bounded on the west by the districts of Kau and North Hilo; on the north by the Ahupuaa

of Paukaa in the district of South Hilo; and on the east by the sea." [L. 1911, c. 53, s. 1; R. L. 1935, s. 2801; am. L. 1941, c. 103, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 25, 1941.) **S.B. 44, Act 103.**

COUNTY OFFICERS.

[B-94] An Act to Amend Section 2805 of the Revised Laws of Hawaii 1935, as Amended, Relating to County Officers.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2805 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended to read as follows:

"Sec. 2805. Designation. The officers of each county shall be a board of supervisors, a county clerk who shall be ex officio clerk of the board of supervisors, an auditor, a county attorney, a treasurer, and in the counties of Hawaii and Kauai a sheriff who shall be ex officio coroner, and in the county of Maui a chief of police who shall be ex officio coroner, and such other officers as may be provided by law; all of whom shall be elected unless otherwise by statute specifically provided." [L. 1905, c. 39, s. 12; am. L. 1905, c. 54, s. 1; R. L. 1935, s. 2805; am. L. 1935, c. 104, s. 4; am. L. 1941, c. 185, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1941.) **S.B. 373, Act 185.**

SALARIES.

[B-95] An Act Amending Section 2816 of the Revised Laws of Hawaii 1935, Relating to Salaries of County Officers.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. That part of **section 2816** of the Revised Laws of Hawaii 1935, reading as follows: "Sheriff, County of Hawaii, 4,200.00," is hereby amended to read as follows:

"Sheriff, County of Hawaii, 5,400.00."

Section 2. This Act shall take effect on July 1, 1941.

(Approved May 20, 1941.) **H.B. 520, Act 310.**

[B-96] An Act Providing the Salaries of Certain County Officers of the County of Kauai.

Be It Enacted by the Legislature of the Territory of Hawaii ^{Am. 1391-1375} ~~Act 276~~ ^{Act 49}

[Sec. 2816A.] Section 1. **Compensation.** The salaries of certain officers of the county of Kauai shall be payable monthly out of the treasury of said county at the following rates, to wit:

	Per annum
County chairman and executive officer.....	\$4,800.00
County supervisors, each.....	1,440.00
County attorney	4,800.00
County sheriff	4,800.00
County auditor	4,200.00
County clerk	4,200.00
County treasurer	4,200.00
County engineer	4,800.00
Deputy sheriff, Waimea district.....	3,000.00
Deputy sheriff, Koloa district.....	2,700.00
Deputy sheriff, Lihue district.....	3,000.00
Deputy sheriff, Kawaihau district.....	2,700.00
Deputy sheriff, Hanalei district.....	2,700.00

Section 2. **Repeal.** All laws or portions of laws relating to salaries of such officers which are inconsistent with the foregoing are hereby repealed.

Section 3. **Effective date.** This Act shall take effect from and after July 1, 1941.

(Approved May 17, 1941.) **S.B. 192, Act 276.**

POWERS AND DUTIES OF BOARD OF SUPERVISORS.

[B-97] An Act Amending Section 2833 of the Revised Laws of Hawaii 1935, as Amended, Relating to the Powers and Duties of the Boards of Supervisors of the Counties in the Territory of Hawaii, by Adding a New Paragraph Thereto to be Known as Paragraph 6-A, Empowering the Said Boards of Supervisors to Regulate and Require the Construction of Roads and the Laying of Water and Sewer Mains in New Sub-divisions of Land Before Lots Therein are Offered for Sale.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2833** of the Revised Laws of Hawaii

1935, as amended is further amended by inserting, following paragraph 6 and before paragraph 7 thereof, a new paragraph numbered 6-A, reading as follows:

“6-A: To regulate and require the construction of roads and the laying of water and sewer mains in subdivisions of land before the lots in such subdivisions are offered for sale or sold and to prescribe the conditions under which such mains shall be laid; provided, however, that no such requirement for the laying of water and sewer mains shall be made to apply in any area in which no county water or sewer systems exist.”

Section 2. This Act shall take effect upon its approval.

(Approved April 18, 1941.) **H.B. 219, Act 49.**

[See also following Act, amending **Sec. 2833.**]

[B-98] An Act to Amend Section 2833 of the Revised Laws of Hawaii 1935, by Amending Subsection 11 Thereof and by Adding a New Subsection Thereto to Be Known as Subsection 11a, Relating to the Powers and Duties of the Board of Supervisors.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Subsection 11 of **section 2833**, Revised Laws of Hawaii 1935, is hereby amended by inserting in the definition of the term “indigent”, after the word “without”, and before the word “means”, the following words: “adequate and proper”, so that the sentence thereafter will read as follows:

“The term ‘indigent’ means a person without adequate and proper means of subsistence, for the support of whom no other person or agency is liable.”

Section 2. **Section 2833** of said Revised Laws is hereby amended by adding a new subsection thereto to be known as subsection 11a to read as follows:

“11a. To make proper provision for the medically indigent. The term ‘medically indigent’ means a person otherwise able to subsist himself or herself, but who in the emergency of sickness is not able to care for the extra expenses necessary to maintain or restore health.”

Section 3. This Act shall take effect upon its approval.

(Approved May 7, 1941.) **S.B. 160, Act 169.**

[See also preceding Act, amending **Sec. 2833.**]

**MAUI COUNTY EMERGENCY AND IMPROVEMENT
RESERVE FUNDS.**

[B-99] An Act to Amend Chapter 86 of the Revised Laws of Hawaii 1935, as Amended, by Inserting a New Section Therein to Be Designated Section 2837-A, Relating to the General Emergency and Permanent Improvement Reserve Funds of the County of Maui.

Am. S. 1377
D. Act 84

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 86 of the Revised Laws of Hawaii 1935, as amended, is hereby amended by inserting therein a new section, to be designated Section 2837-A, which shall read as follows:

"Sec. 2837-A. Fund balances and reserves in the county of Maui. In the county of Maui, any unappropriated surplus and any unencumbered balances of any appropriations in any fund at the end of any fiscal year, shall be available for appropriation for the succeeding fiscal year or years; provided, however, that the auditor and treasurer, by resolution by the board of supervisors, shall transfer all or a portion of said surplus, in accordance with the provisions of said resolution, to the emergency reserve fund and to the improvement reserve fund, both of which are hereby created. The funds in the emergency reserve fund may be used to meet any emergency. Funds transferred to the improvement reserve fund shall be expended only for the specific improvements designated in the resolution making such transfer, provided that the board may change the purposes for which such improvement reserve fund may be expended, by ordinance or resolution passed at two regular meetings of the board, upon affirmative vote of not less than five members of the board of supervisors, notice of which shall be given by publication before final passage thereof.

The funds transferred to the improvement reserve fund may be used to match funds from other governmental agencies available for expenditure for the same purpose.

No amounts transferred, as above authorized, into the emergency reserve fund or the improvement reserve fund shall be deducted from amounts to be raised by taxes for ensuing years nor be taken into consideration by the board of supervisors in fixing and submitting to the treasurer its budget pursuant to the provisions of section 1921, Revised Laws of Hawaii 1935."

Section 2. This Act shall take effect on the date of its approval.

(Approved May 13, 1941.) **S.B. 425, Act 231.**

Am., Sr. B36 S.
 P. Sp.S./41

MAUI POLICE DEPARTMENT.

[B-100] An Act Amending Chapter 86, Revised Laws of Hawaii 1935, as Amended by Act 104, Session Laws of Hawaii 1939, Establishing a Police Department for the County of Maui, by Amending Sections 2849J, 2849M and 2849-O Thereof.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 86 of the Revised Laws of Hawaii 1935, is hereby amended by amending section 2849J, as enacted by Act 104 of the Session Laws of Hawaii 1939, to read as follows:

1939 Act 104 S.L./43 **Sec. 2849J. Appropriations.** The board, upon request of the commission, shall appropriate from time to time for the use of the police department sums aggregating not less than one hundred seventy-five thousand dollars (\$175,000.00) for the calendar year 1941; for the calendar year 1942 and each year thereafter, such appropriations shall aggregate not less than one hundred eighty thousand dollars (\$180,000.00), and the board shall, upon the request of the commission, increase such appropriations by the amount necessary to provide for salary increases up to and including the maximum limits provided for by section 2849-O as herein enacted. The board may from time to time in its discretion appropriate from the proper funds additional moneys to be used by the police department." [L. 1939, c. 104, pt. of s. 1; R. L. 1935, s. 2849J; am. L. 1941, c. 261, s. 1.]

Section 2. Chapter 86 of the Revised Laws of Hawaii 1935, is hereby further amended by amending section 2849M, as enacted by Act 104 of the Session Laws of Hawaii 1939, to read as follows:

"Sec. 2849M. Quarters. The board shall make available to the police department sufficient and proper quarters in each district in the county; the maintenance and repair thereof shall be under the direction and supervision of the police commission and payment therefor shall be made from funds appropriated for the use of the police department." [L. 1939, c. 104, pt. of s. 1; R. L. 1935, s. 2849M; am. L. 1941, c. 261, s. 2.]

Section 3. Chapter 86 of the Revised Laws of Hawaii 1935, is hereby further amended by amending section 2849-O, as enacted by Act 104 of the Session Laws of Hawaii 1939, to read as follows:

"Sec. 2849-O. Salaries. The salaries of all employees of

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SERIES B-100.—ACT 261]

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the police department shall be fixed by the commission, subject to the limitations hereinbelow provided for certain positions, as follows:

(1) The chief of police shall receive a salary of not less than \$4200.00 per year, and not more than \$6000.00 per year;

(2) The assistant chief of police shall receive a salary of not less than \$3300.00 per year and not more than \$4200.00 per year;

(3) Each captain of police shall receive a salary of not less than \$2400.00 per year and not more than \$3300.00 per year;

(4) Each lieutenant of police shall receive a salary of not less than \$2100.00 per year, and not more than \$2340.00 per year;

(5) Each sergeant of police shall receive a salary of not less than \$1800.00 per year, and not more than \$2040.00 per year;

(6) Each patrolman shall receive a salary of not less than \$1380.00 per year, and not more than \$1740.00 per year;

In determining what salary is to be paid each individual patrolman during 1941, the commission shall take into consideration his length of service and efficiency as reported by the chief of police.

(7) For the positions of lieutenant, sergeant and patrolman, the commission shall in so far as possible arrange for annual increases in salary of \$5.00 per month until the maximum salary for such position is reached. No increase shall be paid, however, unless in the opinion of the commission, after a report from the chief of police, such member has rendered satisfactory service. [L. 1939, c. 104, pt. of s. 1; R. L. 1935, s. 2849-O; am. L. 1941, c. 261, s. 3.]

Section 4. This Act shall become effective upon its approval.

(Approved May 16, 1941.) **S.B. 128, Act 261.**

GENERAL PROVISIONS.

[B-101] An Act Amending Sections 2886 and 3118 of the Revised Laws of Hawaii 1935, Relating to the Qualifications of Deputies, Clerks, Assistants and Other Employees of the Counties and City and County.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2886 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 2886. Qualifications of deputies, etc. In addition to the requirements of section 86, all deputies, clerks, assistants and other employees of any county must, while holding their respective offices or positions, actually reside in the county." [L. 1929, c. 39, s. 1; R. L. 1935, s. 2886; am. L. 1941, c. 102, s. 1.]

Section 2. Section 3118 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 3118. Qualifications of deputies, etc. In addition to the requirements of section 86, all deputies, clerks, assistants and other employees of the city and county must, during their respective term of office or employment, actually reside in the city and county." [L. 1907, c. 118, s. 134; am. L. 1921, c. 249, s. 1; am. impl. L. 1929, c. 103, s. 1; R. L. 1935, s. 3118; am. impl. L. 1935, c. 211, s. 1; am. impl. L. 1939, c. 216, s. 1; am. L. 1941, c. 102, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved April 24, 1941.) **H.B. 371, Act 102.**

KAUAI COUNTY DEPARTMENT OF PUBLIC WORKS.

[B-102] An Act to Amend Sections 2895 and 2898 of the Revised Laws of Hawaii 1935, Relating to the Appointment and Removal of Deputies, Assistants and Employees of the Kauai County Department of Public Works and Waterworks Bureau.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2895 of the Revised Laws of Hawaii 1935, as amended by Act 64, Series B-71, of the Session Laws of Hawaii 1935, is hereby further amended to read as follows:

"Sec. 2895. Deputies, assistants and employees. Such deputies, assistants and employees of the department of public works, as the board of supervisors may provide compensation for, shall be appointed by the chairman and executive officer of the board, subject to the approval of the board, and, subject to such approval, such chairman and executive officer may suspend or remove them. All such appointments, suspensions, or removals shall be made in conformity with the applicable requirements of any civil service law effective in the county. Such deputies, assistants and employees shall during their respective appointments perform such duties pertaining to the department as the engineer, by and with the consent of the

board, shall assign to them. The county engineer, with the approval of the board, may appoint, in writing, any deputy, assistant or employee in his department, or, in case no available deputy, assistant or employee is competent, any competent person at such compensation as the board may authorize, to serve as acting county engineer during his temporary illness, incapacity, or absence from the county. The county engineer shall be responsible for all official acts of such acting county engineer, and such acting county engineer shall, during such temporary illness, incapacity or absence of the county engineer, have and exercise all the powers, duties and functions of the engineer, subject to the direction and control of the engineer; provided, however, that no deputy, assistant or employee in the department so appointed as acting county engineer shall receive additional compensation for serving as acting county engineer." [L. 1931, c. 88, s. 3; R. L. 1935, s. 2895; am. L. 1935, c. 64, s. 3; am. L. 1941, c. 9, s. 1.]

Section 2. Section 2898 of the Revised Laws of Hawaii 1935, as amended by Act 62, Series B-72, of the Session Laws of Hawaii 1935, is hereby further amended to read as follows:

"Sec. 2898. County engineer, deputies, assistants and employees. The county engineer shall be the head of the bureau. Such deputies, assistants and employees of the waterworks bureau, as the board may provide compensation for, shall be appointed by the board chairman and executive officer, subject to the approval of the board, and, such chairman and executive officer may suspend or remove them, subject to such approval. All such appointments, suspensions, or removals shall be made in conformity with the applicable requirements of any civil service law effective in the county. The deputies, assistants and employees shall discharge such duties pertaining to the bureau as the engineer shall assign to them, by and with the consent of the board." [L. 1931, c. 89, s. 3; R. L. 1935, s. 2898; am. L. 1935, c. 62, s. 1; am. L. 1941, c. 9, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved April 7, 1941.) **H.B. 12, Act 9.**

SAMUEL MAHELONA MEMORIAL HOSPITAL.

[B-103] An Act to Amend Section 2904 of the Revised Laws of Hawaii 1935, as Amended, Relating to Appropriations for Samuel Mahelona Memorial Hospital.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2904** of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by deleting the words "sixty thousand" appearing in the third and eighth lines thereof, and inserting in lieu thereof the words "seventy-two thousand and five hundred".

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1941.) **S.B. 331, Act 289.**

[See also following Act, amending **Sec. 2904.**]

[B-104] An Act to Amend Section 2904 of the Revised Laws of Hawaii 1935, as Amended, Relating to the Appropriations and Budget of the Samuel Mahelona Memorial Hospital and Expenditure of Funds.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 2904** of the Revised Laws of Hawaii 1935, as amended by Act 125, Session Laws of Hawaii 1937, is hereby further amended by striking out the second sentence of said section 2904 and by adding the following two new paragraphs at the end of said section 2904:

"All moneys appropriated as aforesaid and all moneys received from any source for the maintenance and upkeep of said hospital shall be deposited in a special fund of the treasury of the County of Kauai and all expenditures of said hospital shall be paid by warrants issued by the auditor of the county upon vouchers duly approved and directed to be paid by the trustees of the said hospital.

The auditor of the county shall have the authority to issue a warrant for an amount not to exceed two hundred dollars (\$200.00) in favor of said board of trustees to be kept and expended by them as a petty cash fund and he may prescribe such terms and conditions as he deems necessary for the proper administration and accountability of such fund."

Section 2. This Act shall take effect upon its approval.

(Approved May 5, 1941.) **H.B. 398, Act 158.**

[See also preceding Act, amending **Sec. 2904.**]

KAUAI COUNTY POLICE DEPARTMENT.

Am., Sr. E 95 S. 2
Sp.S./41

[B-105] An Act Amending Chapter 86, Revised Laws of Hawaii 1935, as Amended, by Amending Section 2905 Thereof, Relating to the Kauai County Police Department, Adding a New Section Thereto to be Numbered 2905A Relating to Salaries and Pay, and Making Provision for Officers Presently Receiving Salaries in Excess of the Minimum.

Am., Sr. E 95
P. Act 2

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 86, Revised Laws of Hawaii 1935, as amended, is hereby further amended by substituting the words "one hundred and twenty-five" for the word "eighty" in the fourth line of **section 2905** thereof.

Section 2. Chapter 86, Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding after section 2905 thereof a new section to be numbered 2905A, reading as follows:

"**Sec. 2905A. Salaries and pay.** (1). The annual basic salaries of regular full time police officers, other than the salaries of the sheriff and deputy sheriffs, shall be as follows:

(a). Each patrolman shall receive a minimum salary of not less than \$110.00 per month, and for each year of service in the department he shall receive an increase of \$5.00 per month until he has reached the maximum salary of \$140.00 per month.

(b). Each captain of police in the districts of Waimea and Lihue shall receive a minimum salary of not less than \$150.00 per month, and for each year of service in the department he shall receive an increase of \$10.00 per month until he has reached the maximum salary of \$200.00 per month.

(c). Each captain of police in the districts of Koloa and Kawaihau shall receive a minimum salary of not less than \$135.00 per month, and for each year of service in the department he shall receive an increase of \$10.00 per month until he has reached the maximum salary of \$175.00 per month.

(d). Each captain of police in the district of Hanalei shall receive a minimum salary of not less than \$125.00 per month, and for each year of service in the department he shall receive an increase of \$5.00 per month until he has reached the maximum salary of \$150.00 per month.

(2). The pay of special or part-time police officers, the examiner of chauffeurs, and clerks in the police department shall be as fixed by the sheriff."

Section 3. Any police officer presently in receipt of a salary in excess of the minimum herein provided for his rank and district, but not in excess of such minimum plus the annual automatic increase herein provided for one of his rank and district for the number of years which such officer has served, shall be continued at his present salary with all rights preserved under this statute to an automatic annual increase until such time as he has reached the maximum salary herein provided for his rank and district.

Section 4. This Act shall take effect on and after July 1, 1941.

(Approved May 16, 1941.) **S.B. 330, Act 267.**

HAWAII SUPERVISORS.

[B-106] An Act to Provide for the Establishment of a Managing Committee for the Hilo Memorial Hospital; Prescribing the Manner of Its Appointment; and Prescribing the Tenure, Powers, and Duties of Its Members.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 2914A.] Section 1. **[Managing committee, Hilo Memorial Hospital created.]** There is hereby established a board to be known as the "Managing Committee, Hilo Memorial Hospital", located in the county of Hawaii, consisting of seven members.

[Sec. 2914B.] Section 2. **[Appointment, term, powers, reports.]** The chairman and executive officer of the board of supervisors of the county of Hawaii, with the approval of the board of supervisors of the county of Hawaii, shall appoint the board to be known as the "Managing Committee, Hilo Memorial Hospital", consisting of seven members, who shall serve without pay, who shall hold office for a term of four years; provided, however, that on the first appointment of the managing committee four members shall be appointed for a term of four years and the remaining members for two years; that thereafter all appointments shall be for four years, and that any vacancy shall be filled for the remainder of the unexpired term. The managing committee shall select its own chairman from the members thereof and may establish rules and regulations for the conduct of its business and of the business of the Hilo Memorial Hospital. The committee shall have the full management and control of Hilo Memorial Hos-

HILO MEMORIAL HOSPITAL.

SERIES B-106.—ACT 277]

SERIES B-107.—ACT 79]

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pital, the improvements thereto and the maintenance and equipment thereof, and the full control of the expenditure of all moneys made available by law or otherwise for the improvement, maintenance and equipment of Hilo Memorial Hospital. The committee shall make regular reports as required by the board of supervisors of the county of Hawaii, as to the conduct, management and condition of Hilo Memorial Hospital. The committee may employ, and shall fix and pay the salaries and wages of doctors, nurses and other employees as it may deem necessary for the conduct of Hilo Memorial Hospital. All moneys made available for the use of the managing committee for Hilo Memorial Hospital shall be placed in the special fund for said managing committee, created by this Act, and shall be paid out on warrants drawn by the auditor of the county, upon claims and vouchers duly examined, approved and directed to be paid by the managing committee. The county attorney of the county of Hawaii shall be and act as the legal adviser of the managing committee.

[Sec. 2914C.] Section 3. [Qualifications of members.] Of the seven members of the managing committee of Hilo Memorial Hospital, as established by this Act, at no time shall less than three of them be members in good standing of the medical association of the county of Hawaii and not less than four members of said committee shall at any time be other than recognized citizens of good standing in the county of Hawaii."

Section 4. This Act shall take effect on July 1, 1941, after its approval.

(Approved May 19, 1941.) S.B. 423, Act 277.

[B-107] An Act to Amend Section 2915 of the Revised Laws of Hawaii 1935, as Amended, Relating to the Transportation of School Children.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2915 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending the last paragraph thereof to read as follows:

"The board of supervisors of the county of Hawaii is hereby authorized and empowered to establish suitable routes for transportation, free of charge, of school children within school

age attending the schools within the county of Hawaii whenever the board, in its discretion, shall deem it necessary and proper so to do.”

Section 2. This Act shall take effect upon its approval.

(Approved April 23, 1941.) **S.B. 328, Act 79.**

[B-108] An Act Amending Chapter 86 of the Revised Laws of Hawaii 1935, as Amended, by Adding Thereto a New Section to Be Designated Section 2916-A, Relating to the Clearing of Vacant Lots.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 86 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section to be designated section 2916-A and to read as follows:

“**Sec. 2916-A. [Clearing of vacant lots.]** The board of supervisors of the county of Hawaii is authorized, directed and empowered to enact and enforce all ordinances necessary to compel the clearing of unoccupied lots to a depth of not exceeding one hundred feet from the boundary of such lots on any public street or highway within the city limits of the city of Hilo of refuse and uncultivated undergrowth when such lots become, or are likely to become, fire, health, or crime hazards, and, in this connection, to impose and enforce liens upon the real property involved for the cost to the county of completing the necessary work where the owners fail or refuse, after not less than thirty days’ notice, to comply with such ordinances.

The notice contemplated by the provisions of this Act shall not be given except upon written request so to do, signed by not less than the majority of all the adult residents within a radius of five hundred feet from any boundary of the lot to be affected thereby.”

Section 2. This Act shall take effect upon its approval.

(Approved May 14, 1941.) **S.B. 399, Act 242.**

HAWAII COUNTY—INSURANCE OF
COMMON CARRIERS.

SERIES B-109.—ACT 186]

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COMMON CARRIERS, INSURANCE FOR.

[B-109] An Act to Provide for Compulsory Public Liability and Property Damage Insurance or the Filing of Bonds in Lieu Thereof by Motor Vehicle Common Carriers of Passengers in the County of Hawaii.

Am., S. 12/23
D. Act 12/23

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 2920A.] Section 1. **[Common carriers of passengers to be insured.]** It is declared unlawful for any motor vehicle common carrier of passengers to operate upon or use the public streets or highways of the County of Hawaii until it shall have filed with the treasurer of said county a policy of insurance by which any insurance company authorized to do business within the Territory of Hawaii shall bind itself to pay any final judgment against such common carrier arising out of the death of or personal injury to any person or persons or loss or damage to property of another, or any accident or omission connected with the operation of such common carrier, the limits of which said policy of insurance shall be not less than the standard public liability limit of \$5,000.00 for bodily injury to or death of any one person in any one accident and, subject to such limitation, not less than \$10,000.00 for bodily injuries or death arising out of any one accident. The limitation on liability for damage to property of others shall be not less than the standard limit of \$5,000.00 for any one accident.

[Sec. 2920B.] Section 2. **[Bond in lieu of insurance, allowed when.]** In lieu of such policy of insurance, any such common carrier who has exhausted all reasonable means of securing the foregoing insurance but has been refused the same, may deposit with said treasurer a surety bond, payable to the County of Hawaii, in the principal sum of \$2500.00, with adequate sureties justifying thereon pursuant to the provisions of section 160 of the Revised Laws of Hawaii 1935, and approved by the county auditor. Said bond shall be conditioned on the payment, up to the said sum of \$2500.00, of any final judgment procured against such common carrier for the death of or personal injury to any person or persons or loss or damage to property of another or any accident or omission connected with the operation of such common carrier.

[Sec. 2920C.] Section 3. **[No license to be issued without insurance.]** No license shall be issued in the County of Hawaii under section 2528 of the Revised Laws of Hawaii 1935, unless and until the applicant therefor shall deposit with the treasurer of said county a policy of insurance or a bond as hereinabove described.

[**Sec. 2920D.**] Section 4. [**Cancellation of insurance, revocation of license.**] Such policy of insurance or bond shall be subject to cancellation only after ten (10) days written notice filed with the treasurer of the County of Hawaii, or upon surrender of the license issued for the vehicle involved under the provisions of section 2528, Revised Laws of Hawaii 1935. or upon the filing of a substitute policy of insurance or bond complying with the provisions of sections 1 and 2 hereof. Upon cancellation of any such policy of insurance or bond without the filing of a substitute therefor the treasurer shall immediately recall, confiscate and cancel the license issued under section 2528, Revised Laws of Hawaii 1935, for vehicle involved.

[**Sec. 2920E.**] Section 5. [**Motor vehicle common carrier of passengers defined.**] The term "motor vehicle common carrier of passengers" as used herein means and includes every corporation, joint stock association, person, individual, firm, association of persons, lessee, trustee, receiver, executor or administrator appointed by any court, owning, controlling, operating or managing any motor vehicle, directly or indirectly, for public use in the transportation of passengers for compensation over any public street or highway within the County of Hawaii.

[**Sec. 2920F.**] Section 6. [**Penalty.**] Any person who shall violate any of the provisions of this Act shall be guilty of misdemeanor and shall be punished by a fine not to exceed \$1,000.00, or imprisonment not to exceed one year, or by both fine and imprisonment.

Section 7. This Act shall take effect on July 1, 1941.

(Approved May 9, 1941.) **H.B. 29, Act 186.**

Title XIII. HONOLULU GOVERNMENT.

CHAPTER 88. CITY AND COUNTY OF HONOLULU.

LEGISLATIVE DEPARTMENT.

[B-110] An Act to Amend Section 3012 of the Revised Laws of Hawaii 1935, as Amended by Act 100 of the Session Laws of Hawaii 1935 and by Act 242 of the Session Laws of Hawaii 1939, Relating to Ordinance Revision or Amendment, Codification, and Adoption of Codes by Reference in the City and County of Honolulu.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3012 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended to read as follows:

“Sec. 3012. Revision or amendment; codification and adoption of codes by reference. No ordinance or resolution having the effect of an ordinance shall be revised or amended by reference to its title, but the same, or the section, subsection or paragraph thereof revised or amended, shall be re-enacted at length as revised or amended; provided, however, that when the amendment consists of adding new sections, subsections or paragraphs to existing ordinances or resolutions having the effect of an ordinance, it shall be sufficient to publish such new matter alone if reference be made thereto in the title. Ordinances in the form of codes or portions thereof, regulating traffic, or regulating the construction of buildings, the installation of plumbing, the installation of electric wiring or other similar work, which may have been printed as a code in book or pamphlet form, may be adopted by reference thereto by the passage of an ordinance for that purpose. The code itself need not be published in the manner required for ordinances or resolutions having the effect of an ordinance, but not less than three copies of such code shall be filed, for use and examination by the public, in the office of the clerk of the city and county of Honolulu prior to the adoption thereof.

Any or all ordinances and resolutions having the effect of an ordinance which have been enacted and published in accordance with law and which have not been repealed, may be compiled, consolidated, revised, indexed, including such restatement and substantive change as may be necessary in

the interest of clarity, and arranged as a comprehensive ordinance code, and such code may be adopted by reference by the passage of an ordinance for such purpose. The code itself need not be published in the manner required for ordinances or resolutions having the effect of an ordinance, but not less than three (3) copies of such code shall be filed for use and examination by the public, in the office of the clerk of the city and county of Honolulu prior to the adoption thereof." [L. 1907, c. 118, s. 14; am. L. 1920, c. 16, s. 1; R. L. 1935, s. 3012; am. L. 1935, c. 100, s. 1; am. L. 1939, c. 242, pt. of s. 4; am. L. 1941, c. 73, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 22, 1941.) **S.B. 341, Act 73.**

POWERS OF SUPERVISORS.

[B-111] An Act to Amend Subsection 35 of Section 3021, Revised Laws of Hawaii 1935, as Amended, Relating to the Powers of the Supervisors, and Adding a New Subsection to be Known as Subsection 35a.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Subsection 35 of **Section 3021**, Revised Laws of Hawaii 1935, as amended, is hereby further amended by inserting in the definition of the term "indigent", after the word "without" and before the word "means" the following words: "adequate and proper", so that the sentence thereafter will read as follows:

"The term 'indigent' means a person without adequate and proper means of subsistence, for the support of whom no other person or agency is liable."

Section 2. **Section 3021** of said Revised Laws, as amended, is hereby further amended by adding a new subsection thereto to be known as subsection 35a to read as follows:

"35a. To make proper provision for the medically indigent. The term 'medically indigent' means a person otherwise able to subsist himself or herself but who in the emergency of sickness, is not able to care for the extra expenses necessary to maintain or restore health."

Section 3. This Act shall take effect upon its approval.

(Approved May 13, 1941.) **S.B. 161, Act 227.**

[B-112] An Act to Authorize the Board of Supervisors of the City and County of Honolulu to Provide Free Transportation for Students Attending Certain Schools.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. [Section 3021, subsection 40.] The board of supervisors of the City and County of Honolulu is hereby authorized and empowered to establish suitable routes for the transportation, free of charge, of school children attending the public schools in said city and county, other than public schools in the district of Honolulu, whenever the board, in its discretion, shall deem it necessary and proper so to do.

Section 2. This Act shall take effect upon its approval.

(Approved April 23, 1941.) **H.B. 36, Act 81.**

CITY AND COUNTY OFFICERS.

[B-113] An Act to Amend Section 3038 of the Revised Laws of Hawaii 1935, as Amended by Act 242 of the Session Laws of Hawaii 1939, Relating to Hours of City and County Offices.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3038 of the Revised Laws of Hawaii 1935, as amended by Act 242 of the Session Laws of Hawaii 1939, is hereby further amended to read as follows:

“**Sec. 3038. Office hours.** The several offices of the city and county government shall, except as otherwise directed or permitted by the respective executive heads thereof, with the approval of the mayor, be open for public business on business days from 8 o'clock a. m. until 4 o'clock p. m., except on Saturdays, when they may close at noon, and all full time officers and employees of such offices and departments, whose compensation is paid from funds appropriated by the board of supervisors, shall be in such offices for the transaction of public business during such hours, except when the performance of their official duties requires their presence elsewhere, or when excused by such executive department head; provided, that the hour at noon for luncheon allowed each employee shall be considered as an hour during which actual service is performed. Violation of any of the foregoing provisions by any officer or employee, subject to dismissal from office or em-

ployment, shall be considered as grounds for such dismissal. The receiving and paying hours of the treasurer shall be from 9 o'clock a. m. to 3 o'clock p. m. on all business days, except on Saturdays, when they shall terminate at noon." [L. 1907, c. 118, s. 27; am. L. 1923, c. 160, s. 1; am. imp. L. 1932, 1st, c. 1, s. 2; R. L. 1935, s. 3038; am. L. 1939, c. 242, pt. of s. 4; am. L. 1941, c. 207, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 10, 1941.) **S.B. 421, Act 207.**

CONTROLLER.

[B-114] An Act to Amend Act 242, Session Laws of Hawaii 1939, Relating to the Government of the City and County of Honolulu.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 242, Session Laws of Hawaii 1939, is hereby amended by amending section 3067.03 of chapter 88 of the Revised Laws of Hawaii 1935, as enacted in section 4 of said Act 242, to read as follows:

"Sec. 3067.03. Controller's deputies and clerks; annual appropriation. The controller may appoint such deputies, clerks, stenographers and other assistants, as may be necessary for the proper performance of the duties of his office and for whose employment authorization has been granted and appropriations have been made by the board of supervisors." [L. 1939, c. 242, pt. of s. 4; am. L. 1941, c. 295, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1941.) **S.B. 529, Act 295.**

[B-115] An Act Amending Section 3067.05 of the Revised Laws of Hawaii 1935, as Added Thereto by Act 242 of the Session Laws of Hawaii 1939, Under the Subtitle "Controller" and Relating to Controller's Reports.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 3067.05** of the Revised Laws of Hawaii 1935, as added thereto by Act 242 of the Session Laws of

SERIES B-115.—Act 246]
 SERIES B-116.—Act 317]
 SERIES B-117.—Act 250]

Hawaii 1939, under the subtitle "Controller", is hereby amended by amending the first sentence thereof to read as follows:

"The controller annually shall make a complete financial report which together with his records and accounts shall be audited by the city and county auditor."

Section 2. This Act shall take effect from and after the date of its approval.

(Approved May 14, 1941.) **S.B. 7, Act 246.**

[B-116] An Act to Amend Section 3067.13 of the Revised Laws of Hawaii 1935, as Enacted by Act 242 of the Session Laws of Hawaii 1939, Relating to Transfer of Appropriations.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 3067.13** of the Revised Laws of Hawaii 1935, as enacted by Act 242, Session Laws of Hawaii 1939, is hereby amended so that the first sentence thereof shall read as follows:

"The board of supervisors, by ordinance or resolution, may transfer an unencumbered balance, or part thereof, of an appropriation made for the use of one department, to another."

Section 2. This Act shall take effect upon its approval.

(Approved May 21, 1941.) **S.B. 169, Act 317.**

[B-117] An Act to Amend Section 3067.15 of the Revised Laws of Hawaii 1935, Enacted by Act 242 of the Session Laws of Hawaii 1939, Relating to City and County Purchasing Agent.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 3067.15** of the Revised Laws of Hawaii 1935, enacted by Act 242 of the Session Laws of Hawaii 1939, is hereby amended by amending the first paragraph thereof to read as follows:

"**Sec. 3067.15. The bureau of purchases and supplies.** There is hereby created a bureau to be known as the bureau of pur-

chases and supplies, the chief administrative head of which shall be the purchasing agent. He shall be charged with the purchase of all materials for the city and county. No contract for services of firms or persons other than regularly appointed employees shall be made without the approval as to form and availability and designation of funds by the controller. The purchasing agent shall be appointed by the controller. The purchasing agent shall receive such salary as may be fixed and allowed by the board of supervisors pursuant to any existing classification system, and shall be required to give official bond in the amount of ten thousand dollars (\$10,000.00) conditioned upon the faithful performance of his duties."

Section 2. All officers or employees of the city and county engaged in the discharge of the duties of a purchasing agent or of an administrative bureau or department discharging such duties, whether such bureau or department or office or employment was created by statute or by ordinance, shall continue in their respective offices and employments and shall be deemed members of the civil service system of the city and county.

Section 3. This Act shall take effect upon its approval.

(Approved May 14, 1941.) **S.B. 401, Act 250.**

GENERAL PROVISIONS.

[B-118] An Act Amending Sections 3114A and 3114B of the Revised Laws of Hawaii 1935, Relating to the City and County Dentist.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Sections 3114A and 3114B of the Revised Laws of Hawaii 1935, as enacted by Act 194, Series B-82, of the Session Laws of Hawaii 1939, are hereby amended to read as follows:

"**Sec. 3114A. Dentists, appointment, qualifications.** The board of supervisors of the City and County of Honolulu is hereby authorized and directed to provide for one or more city and county dentists who shall be appointed by the city and county physician and whose full time duties it shall be to care for, free of charge for either services or materials, the dental needs of all indigents in said city and county. Each shall be a person duly licensed to practice dentistry under chapter 28 of the Revised Laws of Hawaii 1935. All such positions shall be

included in the civil service of the city and county and be subject to all its requirements. The city and county dentists shall accept no fees from any patients, whether indigents or not, their salaries being in full compensation for all dental services rendered of whatsoever nature. Their salaries shall be as fixed by the city and county classification of salaries schedule as adopted by the board of supervisors of the city and county.

In the determination of indigency, and of what patients are in need of dental work, the city and county dentists shall cooperate with the board of health, the board of public welfare, the unemployment compensation commission, and any other welfare or social agencies of the City and County of Honolulu.

Each shall render a monthly report of all his official activities to the city and county physician." [L. 1939, c. 194, s. 1; am. L. 1941, c. 41, s. 1.]

"Sec. 3114B. Appropriations. The board of supervisors of the city and county shall appropriate annually from its general fund the salaries of one or more of such dentists as are provided for and appointed under section 3114A, and all additional sums necessary for the supplies and miscellaneous expenses of each such dentist. Reductions in said annual amounts may be made by the board to the extent of any funds which may be made available to it for such purposes under the Federal Social Security Act or any other national legislation of like import now in force or hereafter enacted." [L. 1939, c. 194, s. 2; am. L. 1941, c. 41, s. 2.]

Section 2. The present city and county dentist is hereby continued in office, subject to removal by the city and county physician, and is hereby made a member of the city and county civil service system without the requirement of examination.

Section 3. This Act shall take effect on July 1, 1941.

(Approved April 17, 1941.) **H.B. 184, Act 41.**

[**Sec. 3118. Qualifications of deputies, etc.** Amended by Act 102, *supra*, page 150.]

[**Sec. 3128.1. Vacations.** Amended by Act 329, *supra*, page

11. **Sec. 3128.2. Sick leave.** Repealed by Act 329, *supra*, page 12.]

CITY PLANNING COMMISSION.

[B-119] An Act to Amend Section 3133.3 of the Revised Laws of Hawaii 1935, as Enacted by Act 242, Session Laws of Hawaii 1939, Relating to the Master Plan of the City of Honolulu.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3133.3 of the Revised Laws of Hawaii 1935, as enacted by Act 242, Session Laws of Hawaii 1939, is hereby amended to read as follows:

“Sec. 3133.3. Master plan of the city. As soon as practicable, but not later than December 31, 1943, the commission shall prepare, and thereafter from time to time may modify, a master plan of the city of Honolulu, as defined in section 3001, and of such other areas of the city and county as may be made subject thereto pursuant to the procedure therefor provided in section 3133.4, which shall show desirable streets, roads, highways, and the grades thereof, bridges, parks, parkways, and other public ways, playgrounds, sites for public buildings and other structures, building zone districts, use zone districts, waterways, routes of street railroads, omnibus and other public carriers, (provided that such plan shall not affect heretofore legally authorized routes), locations of drainage systems, sewers, sewage treatment plants, incinerators, water conduits, and other public utilities, privately or publicly owned, and such other features, changes and additions as will provide for the improvement of the city and its future growth and development, and afford adequate facilities for the housing, transportation, distribution, comfort, convenience, health, and welfare of its population. Before adopting the master plan or any part or modification thereof, the commission shall hold a public hearing or hearings, published notice of each of which, (except an adjourned meeting), shall be given. The master plan and all modifications thereof shall be kept on file in the office of the commission.” [L. 1939, c. 242, pt. of s. 4; am. L. 1941, c. 323, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 21, 1941.) **S.B. 474, Act 323.**

CHAPTER 92. HIGHWAYS, IMPROVEMENT BY ASSESSMENT.

[B-120] An Act to Amend Section 3184, Revised Laws of Hawaii 1935, as Amended by Act 242, Session Laws of Hawaii 1939, Relating to Improvements by Assessment of Highways in the City and County of Honolulu.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3184 of the Revised Laws of Hawaii 1935, as amended by Act 242, Session Laws of Hawaii 1939, is hereby further amended to read as follows:

"Sec. 3184. Costs and assessments borne by municipality. The city and county shall pay out of any funds available for such purposes the entire cost of engineering, incidentals and inspection, and in case of frontage improvement the cost assessable against the frontage or frontages of any adjoining or cross street or in case of area improvement districts, the cost of improving the area common to both streets at the intersection of any cross street or one-half of the area opposite the intersection of any adjoining street, and thirty-three and one-third per centum of the total cost of general improvements (excluding engineering, incidentals and inspection and cost of new curbing and sidewalks) upon or along all main or general thoroughfares and upon or along all other streets or highways, except where improvements are initiated under sections 3187 and 3188; provided that in the case of a main or general thoroughfare, it shall be lawful for the city and county to assume and pay out of available funds all or any part of the cost of pavement in excess of twenty-six feet in width; and provided further, it shall be lawful for the city and county to assume and pay out of such available funds the cost of widening any street or highway in any district where the costs of construction of the street or highway to be widened were assessed against the lands benefited by such construction in the manner provided by this chapter. A main or general thoroughfare within the meaning hereof shall be any street or highway as is subjected to more than ordinary traffic and travel by the general public or which serves as a generally necessary connecting thoroughfare between substantially different or naturally separated localities or sections of Honolulu.

The board whenever in its judgment the interests of the city and county will be best served and to protect the city and county from claims for damages from surface waters, may

provide for the collection and disposition of storm waters by proceeding independently of any other improvement proceedings, and, in either event, pay the whole or any part of the cost thereof out of available funds, or may assess the whole or any part of the cost thereof according to the benefits arising therefrom and in the manner provided for apportioning assessments for general improvements. And it shall be lawful for the city and county to assume and pay out of such available funds all or any part of the cost of acquiring any new land required for any improvement under the provisions of this chapter." [L. 1919, c. 241, pt. of s. 2; am. L. 1920, c. 13, s. 2; am. L. 1923, c. 184, s. 2; am. L. 1925, c. 191, s. 3; R. L. 1935, s. 3184; am. L. 1939, c. 242, pt. of s. 5; am. L. 1941, c. 287, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1941.) **S.B. 257, Act 287.**

Title XIV. APPEAL AND ERROR.

CHAPTER 96. APPEALS: BOND.

[C-121] An Act to Regulate Time for Taking an Appeal in Any Criminal Cause in Which Imposition or Execution of Sentence Has Been Suspended.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 3500A.] Section 1. [Time for appeal in case of suspended sentence.] Whenever in any criminal cause an order suspending the imposition or execution of sentence shall be entered by a District Magistrate or a Circuit Court, such order shall for the purposes of appeal be deemed a final judgment and the time within which to perfect any appeal, bill of exceptions or writ of error in any such cause shall commence to run from the entry thereof.

Section 2. This Act shall take effect upon its approval.

(Approved April 21, 1941.) **S.B. 266, Act 66.**

[C-122] An Act to Amend Section 3501 of the Revised Laws of Hawaii 1935, as Amended, Relating to Appeals From Decisions, Judgments, Orders or Decrees of Circuit Judges at Chambers.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3501 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending the first paragraph thereof to read as follows:

“Sec. 3501. From circuit judges in chambers. Appeals shall be allowed from all decisions, judgments, orders or decrees of circuit judges in chambers, to the supreme court, except in cases in which the appellant is entitled to appeal to a jury, whenever the party appealing shall file notice of his appeal, and pay the costs accrued within five days after the filing of the decision, judgment, order or decree appealed from; **provided,** however, that in any case in which the law allows an appeal from the decision, judgment, order or decree of a judge in chambers to be tried before a jury, the judge whose decision, judgment, order or decree is appealed from shall not preside at the trial of such appeal before a jury.”

Section 2. This Act shall take effect upon its approval.

(Approved April 29, 1941.) **S.B. 240, Act 122.**

Title XV. COURTS.

CHAPTER 101. GENERAL PROVISIONS.

[C-123] An Act to Amend Section 3579 of the Revised Laws of Hawaii 1935, Relative to the Publication of Judicial Notices and Process.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3579 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“Sec. 3579. Publication of notices and process. All notices or process required or permitted by law, by the rules of any court, or by judicial order to be published or advertised in judicial proceedings in the Territory shall be published or advertised in a newspaper or newspapers having a general

circulation within the county in which such judicial proceedings are commenced or had.

When such notices or process are required to be published or advertised once or more in a given interval for or in a successive number of such intervals, the use of the word, 'successive', shall not be construed to require publication in more than the stated number of intervals, for example, a requirement of publication 'once a week for (or in) three successive weeks', shall require but three publications." [L. 1919, c. 31, s. 1; R. L. 1935, s. 3579; am. L. 1941, c. 36, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 16, 1941.) **S.B. 46, Act 36.**

CHAPTER 102. SUPREME COURT.

[C-124] An Act to Amend Act 215 of the Session Laws of Hawaii 1939 Relating to the Authority of the Supreme Court to Prescribe Rules.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4 of Act 215 of the Session Laws of Hawaii 1939 is hereby amended to read as follows:

[Sec. 3602D.] "Section 4. [Effect of rules; effective date.] All general rules made under the provisions of this Act shall, when promulgated, have the force and effect of law and shall supersede any statute in conflict therewith. It is provided, however, that no such rules shall take effect prior to June 1, 1943."

Section 2. This Act shall take effect upon its approval.

(Approved May 16, 1941.) **S.B. 402, Act 259.**

CHAPTER 103. CIRCUIT COURTS.

JURISDICTION AND POWERS.

[C-125] An Act to Amend Chapter 103 of the Revised Laws of Hawaii 1935, as Amended, Relating to Hearings of Chambers Proceedings by a Circuit Judge Without the Boundaries of His Circuit.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 103 of the Revised Laws of Hawaii 1935,

as amended, is hereby further amended by adding thereto a new section to be numbered 3649-A and to read as follows:

"Sec. 3649-A. Hearings without circuit. Upon consent of all the parties who have appeared in any equity, probate or ex parte proceeding of any nature before any circuit judge in chambers, the circuit judge may in his discretion hold hearings in such proceeding, at which witnesses may be heard and evidence adduced and argument presented, at any place within the Territory without the boundaries of his circuit with the same effect as within the boundaries of his circuit, and for the purpose of such hearings may use the services of the clerk and reporter of the circuit court of the circuit within which such hearings are held, and may require stipulations between the parties as to the payment of costs of transportation and other special costs arising out of the fact that such hearings are held without the boundaries of his circuit as a condition of holding such hearings."

Section 2. This Act shall take effect on July 1, 1941.

(Approved May 14, 1941.) **S.B. 479, Act 243.**

CHAPTER 104. BOUNDARY COMMISSIONER.

FENCES.

[C-126] An Act Amending Sections 3671 and 3673 of the Revised Laws of Hawaii 1935, as Amended, Relating to Petition and Hearing and Order in Proceedings Regarding the Fencing of Land and the Maintenance of Fences Around Land.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3671 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended to read as follows:

"Sec. 3671. Petition. Any person owning, leasing, or occupying land (under a planting agreement with the owner or lessee) who desires to fence such land, or, who, having fenced such land, desires to provide for the maintenance of the fence, may file a petition with the circuit judge of the circuit within which the land is situated praying for the hearing and determination of the matter.

Such petition shall designate the land of the petitioner by name or description, the location thereof, the boundary or boundaries desired to be fenced or the fence desired to be maintained, and shall designate the adjoining land or lands and state the name or names of the owner or owners thereof, and the lessee or lessees thereof. Upon the filing of the petition, summons shall issue to the adjoining owners and lessees as in other proceedings before circuit judges at chambers." [L. 1931, c. 101, s. 1; R. L. 1935, s. 3671; am. L. 1935, c. 52, s. 1; am. L. 1941, c. 219, s. 2.]

Section 2. Section 3673 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended to read as follows:

"Sec. 3673. Hearing; order. At the time set for the hearing of the petition the judge and the parties shall view the line of fence or proposed fence. The judge shall decide equitably on the kind of fence to be built or maintained as circumstances or desired purposes may require and the portion or portions to be erected or maintained by either the respective land owners or any of the occupants or lessees of the particular parcels of land affected, insofar as their respective interests are concerned, or the share which each shall contribute to the cost thereof. When the desired fence serves primarily for boundary identification the judge may order that pipes set in concrete monuments or other satisfactory boundary markers of a somewhat permanent nature may be installed and maintained at all corners, end points or angle points of such boundary fence and may also order that commonly used fence posts be installed along the boundary under consideration at approximately equal intervals or spans ranging in distance from 20 feet up to 500 feet, to identify such boundary and in all such boundary identification cases he may waive the use of wire or the full compliance with the requirements of a lawful fence.

When the desired fence is intended for the purpose of confining animals of each adjacent owner, adjacent occupant, or adjacent lessee of land in their respective lands, the judge shall decide equitably on the kind of fence to be built or maintained, to the end that trespass shall be prevented and that injury or damage to either party shall be reduced to the very minimum, and the portion or portions to be erected or maintained by either the respective land owners or any of the occupants or lessees of the particular parcels of land affected, insofar as their respective interests are concerned, or the share which each shall contribute to the cost thereof.

The judge shall specify the time within which the work shall be done and shall decide all disputes which may arise between the parties concerning the same and shall thereupon enter a decree.

In case any party shall neglect or refuse to build or maintain or to pay his share of the cost thereof in accordance with the decree, the judge, upon application therefor by the party aggrieved, may direct compliance with the decree at the expense of the defaulting party and enter judgment for the amount thereof, or for the part of the cost thereof if the work has been done, and issue execution therefor, or may enforce compliance with the decree by other appropriate proceedings." [L. 1931, c. 101, s. 3; R. L. 1935, s. 3673; am. L. 1935, c. 52, s. 2; am. L. 1941, c. 219, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved May 13, 1941.) **H.B. 508, Act 219.**

CHAPTER 105. CLERKS, REPORTERS, INTERPRETERS.

OFFICIAL REPORTERS AND INTERPRETERS.

[C-127] An Act to Amend Section 3697 of the Revised Laws of Hawaii 1935, Relating to the Appointment, etc., of Court Reporters, Interpreters and Clerks.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 3697** of the Revised Laws of Hawaii 1935, is hereby amended by amending the second paragraph thereof to read as follows:

"Authority is also conferred upon the district magistrates of Honolulu, City and County of Honolulu, upon the district magistrate of South Hilo, County of Hawaii, and upon the district magistrate of Wailuku, County of Maui, respectively, to appoint a clerk or clerks and one or more interpreters for each of said district courts, and upon the district magistrate of Makawao, the district magistrate of Lahaina and the district magistrate of Lanai in the County of Maui, respectively, to appoint a clerk for each of said district courts."

Section 2. This Act shall take effect upon its approval.

(Approved April 21, 1941.) **H.B. 414, Act 52.**

[C-128] An Act to Amend Section 3700 of the Revised Laws of Hawaii 1935, Relating to the Payment or Deposit of Fees for the Preparation of Transcripts by the Reporter.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 3700** of the Revised Laws of Hawaii 1935, is hereby amended by amending the first paragraph thereof to read as follows:

“Each reporter shall receive for his services as above designated such salary as may be appropriated from time to time, as compensation for his services in court, and may charge not exceeding fifteen cents per folio of one hundred words for original transcripts of testimony, and seven-and-a-half cents per folio of one hundred words for carbon copies thereof, when such transcripts are prepared in their regular order for the purposes of appeal to the supreme court, and not exceeding twenty cents per folio for originals and ten cents per folio for carbons when transcripts are prepared daily, during the course of a trial. The fees for transcripts ordered by a party must be paid by the party ordering the same, and, except in the case of the attorney general, or the county or city and county attorneys, no reporter shall be required to perform any such service until his fees have been paid or the amount of the estimated cost of same deposited with the clerk of the court.”

Section 2. This Act shall take effect upon its approval.

(Approved April 15, 1941.) **S.B. 29, Act 29.**

OFFICERS AND BAILIFFS, FIRST CIRCUIT.

[C-129] An Act Providing for a New Section to be Known as Section 3702, Revised Laws of Hawaii 1935, Relating to Court Officers and Bailiffs.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. A new section is hereby added to chapter 105, Revised Laws of Hawaii 1935, to be known as section 3702 and to read as follows:

“**Sec. 3702. Court officers and bailiffs in the first judicial circuit.** The judges of the circuit court of the first judicial circuit are hereby empowered, subject to any existing civil service law or requirements, to appoint five (5) persons to be known as ‘court officers and bailiffs’, one of whom shall

be designated as 'chief court officer and bailiff', and who, subject to the direction and control of the respective judges, shall assign one or more of such court officers and bailiffs to attend upon the trial of causes in any chambers or courtroom, to keep order in the courtroom and judiciary building, to serve notices and other process of the court as directed by any judge of the court, to summon jurors and, under the supervision of the respective courtroom clerks, to have custody over juries and perform any other duties in and around the court as shall be from time to time required of them by the presiding judges or by rule of court. They shall be in attendance during all sessions of the respective divisions of the court and perform other duties during business hours or during emergencies as may be required of them by the respective judges, absenting themselves only upon special permission from the judge presiding in the court of assignment or from the chief court officer or bailiff. Their salaries shall be in conformity with such classification and compensation schedules as may be adopted by the City and County of Honolulu and shall be payable out of any funds made available for such purpose. They shall not be entitled to any fees for the service of process or for the performance of any other service, but where fees are chargeable by law for such services, such fees shall become and be general realization of the City and County of Honolulu. In the performance of their duties they shall have the general powers of a police officer; provided, however, they shall not interfere with the work of the high sheriff, the sheriff of the City and County of Honolulu or their deputies in the service of any process for which fees are paid. Any appointee under this section who, at the time of such appointment, is a member of any pension fund for policemen, firemen and bandsmen under the provisions of part 3 of chapter 259, shall continue as such member after such appointment with the same rights to prior and subsequent service credit as if he had remained in the service of the county as a policeman or deputy sheriff. In the event any court officer and bailiff is required to serve any notice or any process, he shall be entitled to reimbursement for reasonable actual expenses for transportation, to be paid out of circuit court expenses, in such sums as may be approved by a presiding judge of the court.

Section 2. This Act shall take effect upon approval, and persons then acting as court officers and bailiffs under the direction of the sheriff shall continue as such under this Act as members of the civil service system of the City and County of Honolulu.

(Approved May 22, 1941.) **H.B. 423, Act 332.**

CHAPTER 107.**DISTRICT
COURTS.****DISQUALIFICATION, ABSENCE, ETC.**

[C-130] An Act to Amend Section 3762 and to Repeal Section 3768 of the Revised Laws of Hawaii 1935, Relating to District Magistrates.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3762 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

“**Sec. 3762. [Temporary district magistrate.]** Whenever it is advisable, by reason of the disqualification of any district magistrate or his inability to attend to his duties by reason of illness or temporary absence or for any other reason, the chief justice of the supreme court may designate the district magistrate of any other district to hear and determine any and all matters then or thereafter pending in the district court to which he shall be called for such purpose and while so engaged he shall have and exercise all of the powers of the district magistrate so disqualified or temporarily incapacitated from discharging the functions of his office.” [L. 1931, c. 101, s. 2; R. L. 1935, s. 3672; am. L. 1941, c. 26, s. 1.]

[**Sec. 3767** amended by following Act.]

Section 2. **Section 3768** of said Revised Laws is hereby repealed.

Section 3. This Act shall take effect upon its approval.

(Approved April 14, 1941.) **S.B. 166, Act 26.**

JURISDICTION.

[C-131] An Act Amending Section 3767 of the Revised Laws of Hawaii 1935, Relating to Criminal Jurisdiction of District Magistrates.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3767 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“**Sec. 3767. Criminal jurisdiction of district magistrates.** The criminal jurisdiction of the district magistrates of Lihue,

island of Kauai; Honolulu, island of Oahu; Wailuku, Lahaina and Makawao, island of Maui; Hilo, Hamakua, North Kohala and North Kona, island of Hawaii; over all offenses which are within the jurisdiction of district magistrates according to law, shall be coextensive with the judicial circuits in which their respective districts are situated." [L. 1893-4, c. 42, s. 1; am. L. 1896, c. 41, s. 1; R. L. 1935, s. 3767; am. L. 1941, c. 27, s. 1.]

Section 2. This Act shall take effect from and after the date of its approval.

(Approved April 15, 1941.) **S.B. 18, Act 27.**

CHAPTER 108. COSTS.

CIRCUIT AND SUPREME COURTS.

[C-132] An Act to Amend Section 3791 of the Revised Laws of Hawaii 1935, as Amended, Relating to Costs and Fees in the Supreme Court, Circuit Courts and Circuit Judges at Chambers.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 3791** of the Revised Laws of Hawaii 1935, as amended by Act 157 of the Session Laws of Hawaii 1937, and by Act 19 of the Session Laws of Hawaii 1939, is hereby further amended by substituting for the words "for every person to be served personally with process", wherever the same appear in said section, as amended, the words "for every copy of process to be served", and changing the charge therefor from one dollar to fifty cents.

Section 2. This Act shall take effect on June 1, 1941.

(Approved May 13, 1941.) **S.B. 239, Act 229.**

PROBATE COURTS.

[C-133] An Act to Amend Section 3793 of the Revised Laws of Hawaii 1935 as Amended Relating to Costs.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 3793** of the Revised Laws of Hawaii 1935 as amended is hereby further amended by substituting

for the word "five" in the third line of the paragraph thereof entitled "Fees of commissioners and appraisers:" the word "ten".

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1941.) **S.B. 476, Act 293.**

CHAPTER 109.

EVIDENCE.

BUSINESS RECORDS.

[C-134] An Act to Provide for the Admission in Evidence of Business Records; to Make Uniform the Law in Respect Thereto; and to Repeal Certain Acts.

Be It Enacted by the Legislature of the Territory of Hawaii:

[**Sec. 3836A.**] Section 1. **Definition.** The term "business" shall include every kind of business, profession, occupation, calling or operation of institutions, whether carried on for profit or not.

[**Sec. 3836B.**] Section 2. **Business Records.** A record of an act, condition or event, shall, in so far as relevant, be competent evidence if the custodian or other qualified witness testifies to its identity and the mode of its preparation, and if it was made in the regular course of business, at or near the time of the act, condition or event, and if, in the opinion of the court, the sources of information, method and time of preparation were such as to justify its admission.

[**Sec. 3836C.**] Section 3. **Uniformity of Interpretation.** This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states and territories which enact it.

[**Sec. 3836D.**] Section 4. **Short Title.** This Act may be cited as the Uniform Business Records as Evidence Act.

Section 5. **Repeal.** Act 72 (Series C-89) of the Session Laws of Hawaii 1937, and, in addition, all Acts or parts of Acts which are inconsistent with the provisions of this Act are hereby repealed.

Section 6. **Time of Taking Effect.** This Act shall take effect upon its approval.

(Approved May 13, 1941.) **H.B. 499, Act 218.**

JUDICIAL NOTICE OF FOREIGN LAWS.

[C-135] An Act for the Judicial Notice of the Laws of Other Jurisdictions and for Proof Thereof and to Make Uniform the Law With Reference Thereto.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 3837A.] Section 1. **Judicial notice.** Every court of this Territory shall take judicial notice of the common law and statutes of every state, territory and other jurisdiction of the United States.

[Sec. 3837B.] Section 2. **Information of the court.** The court may inform itself of such laws in such manner as it may deem proper, and the court may call upon counsel to aid it in obtaining such information.

[Sec. 3837C.] Section 3. **Ruling reviewable.** The determination of such laws shall be made by the court and not by the jury, and shall be reviewable.

[Sec. 3837D.] Section 4. **Evidence as to laws of other jurisdictions.** Any party may also present to the trial court any admissible evidence of such laws, but, to enable a party to offer evidence of the law in another jurisdiction or to ask that judicial notice be taken thereof, reasonable notice shall be given to the adverse parties either in the pleadings or otherwise.

[Sec. 3837E.] Section 5. **Foreign country.** The law of a jurisdiction other than those referred to in section 1 shall be an issue for the court, but shall not be subject to the foregoing provisions concerning judicial notice.

[Sec. 3837F.] Section 6. **Interpretation.** This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states and territories which enact it.

[Sec. 3937G.] Section 7. **Short title.** This Act may be cited as the Uniform Judicial Notice of Foreign Law Act.

Section 8. **Repeal.** All Acts or parts of Acts inconsistent with the provisions of this Act, are hereby repealed.

Section 9. **Time of taking effect.** This Act shall take effect upon its approval.

(Approved April 25, 1941.) **S.B. 463, Act 110.**

CHAPTER 112. SALARIES AND EXPENSES.

[C-136] An Act to Amend Section 3940 of the Revised Laws of Hawaii 1935, as Amended, Relating to Salaries and Expenses of Circuit Courts.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 3940** of the Revised Laws of Hawaii 1935, as amended by Act 40 (Series C-101) of the Session Laws of Hawaii 1935, as further amended by Act 37 (Series C-92) of the Session Laws of Hawaii 1935, and as further amended by that portion of Act 231 (Series C-95) of the Session Laws of 1939 relating to the fifth circuit court, is hereby further amended by amending the items under the heading "Fifth Circuit Court" to read as follows:

"Fifth Circuit Court

	Per month	Per annum
Clerk	275.00	3,300.00
Assistant clerk	200.00	2,400.00
Bailiff	135.00	1,620.00
Court reporter, librarian, assistant clerk and secretary to judge.....	275.00	3,300.00
Court expenses		5,000.00
Support and care of juvenile court de- pendents and delinquents.....		3,000.00
Probation officer for boys.....	225.00	2,700.00
Probation officer for girls.....	225.00	2,700.00
Expenses, probation officer for boys...	40.00	480.00
Expenses, probation officer for girls...	40.00	480.00
Law books		400.00

The board of supervisors of the County of Kauai is hereby authorized and directed to provide suitable automobiles for the use of each probation officer."

Section 2. This Act shall take effect on July 1, 1941.

(Approved May 17, 1941.) **S.B. 306, Act 275.**

Title XVI. CIVIL PROCEDURE.

CHAPTER 119. ESCHEAT.

UNCLAIMED MONEYS.

[C-137] An Act Amending Chapter 119 of the Revised Laws of Hawaii 1935, by Adding a New Section to be Numbered Section 4235A, Relating to Escheat of Unclaimed Moneys in the Custody of a Clerk of Court.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 119 of the Revised Laws of Hawaii 1935 is hereby amended by adding thereto a new section to be numbered 4235A, and to read as follows:

"Sec. 4235A. Unclaimed moneys in the custody of court clerks. The clerk or, if a court has more than one clerk, the chief clerk, of each of the several courts of the Territory shall annually give notice, by publication once in each of three successive weeks in a newspaper of general circulation published in the circuit in which the court functions to all persons who may be entitled to claim any money in the custody of any clerk of such court which shall have remained unclaimed for a period of not less than seven years after the earliest date on which a duly presented valid claim thereto would have been payable, to appear and present their claims to him or be forever barred.

All rights in any such money of any claimant who shall fail to appear and present his claim within sixty days from the date of the first publication of the notice shall be forever barred, and any such money a valid claim to which shall not have been presented within said time shall escheat to the county in which the court is situated, and shall be transferred to the treasurer of such county by such clerk as a county realization.

At any time within five years after the payment to the treasurer of any county of any such moneys, the persons (or their legal representatives) who would have been the lawful owners thereof if the same had not been paid as provided hereinabove, upon making to the board of supervisors of such county, as evidenced by resolution of said board, satisfactory proof of such facts and that they did not have actual notice

of the escheat proceedings, shall be paid the net amount thereof, after proportionate deduction for costs incurred in the advertisement, out of any available moneys in the general fund of such county upon warrant of the county auditor."

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1941.) **S.B. 77, Act 172.**

[C-138] An Act to Amend Section 4236 of the Revised Laws of Hawaii 1935, as Amended by Act 192 (Series C-103) of the Session Laws of Hawaii 1935 and as Further Amended by Act 74 (Series C-100), of the Session Laws of Hawaii 1937, and to Amend Section 4236-A of the Revised Laws of Hawaii 1935, as Enacted by Said Act 192 (Series C-103) of the Session Laws of Hawaii 1935, Both Relating to the Escheat of Moneys on Deposit With Banks, Trust Companies and Fiduciary Companies, and to Add a New Section to Chapter 119 of the Revised Laws of Hawaii 1935, as Amended, to be Numbered and Known as Section 4238, and to Relate to the Escheat of Unclaimed Moneys Held by Trustees for Creditors and Stockholders of Dissolved Corporations.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4236 of the Revised Laws of Hawaii 1935, as amended by Act 192 (Series C-103) of the Session Laws of Hawaii 1935 and by Act 74 (Series C-100) of the Session Laws of Hawaii 1937, is hereby further amended to read as follows:

"Sec. 4236. Duty of banks, etc., to report inactive accounts. It shall be the duty of every bank, except banks organized under the laws of the United States, trust company and fiduciary company doing business in the Territory to submit, as of July 1st of each even numbered year and on or before July 31st of each such even numbered year, a written report, in sextuplicate, to the territorial treasurer showing all accounts on deposit with it where the present address of the owner thereof is unknown and where no deposits have been made therein and no withdrawals or disbursements have been made therefrom for a period of ten years after the date of the last deposit or withdrawal, giving the names of the last known owners of the accounts and their addresses, and showing the amount standing to the credit of each such person, including

principal and interest. Said report shall be in such form as the treasurer may require, and he may require that the names of all such last known owners of accounts be listed therein, under any appropriate grouping or classification which the bank, trust company, or fiduciary company may choose to make, with the surnames arranged in order alphabetically complete to the first letter of the surnames." [L. 1933-4, c. 15, s. 1; R. L. 1935, s. 4236; am. L. 1935, c. 192, s. 1; am. L. 1937, c. 74, s. 1; am. L. 1941, c. 210, s. 1.]

Section 2. Section 4236-A of the Revised Laws of Hawaii 1935, as enacted by Act 192 (Series C-103) of the Session Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 4236-A. Information; hearing; decree. The treasurer upon receipt of any such report shall transmit the original and four copies thereof to the attorney general, who shall file, in the name of the Territory, an information in the circuit court of the first judicial circuit, naming as parties respondent therein all persons whose names appear in such report as the last known owners of accounts therein and the bank, trust company or fiduciary company which furnished it, and setting forth the facts upon which the claim of the Territory to the escheat of the moneys represented by such accounts is based. The court shall thereupon cause a summons to be issued, directed to the bank, trust company or fiduciary company furnishing the report, and requiring it to appear upon a day certain to show cause, if any it has, why the moneys involved in said proceedings should not be deposited in the territorial treasury, as provided in section 4237, and notifying it that if it does not so appear, the relief prayed for in said information will be granted. A copy of said summons and a certified copy of the information shall be served upon the said bank, trust company or fiduciary company furnishing the report. Further, the court shall order its clerk to cause a notice to be published, which notice shall be directed to all persons claiming any interest in any account mentioned in said information, including those named as respondents therein, and shall summon, direct and require them to appear upon the said day certain to show cause, if any they have, why the moneys involved in said proceeding should not be deposited in the territorial treasury, as provided in section 4237, and shall notify them that if they do not so appear, the relief prayed for in said information will be granted. Said notice shall be published twice in a daily newspaper of general circulation, published in Honolulu, the second publication to be not less than 60 days after the first and not less than one month prior to the date fixed for the hearing of said information. Forthwith upon the first publication, the

attorney general shall cause newspaper copies of said notice as so published to be posted in at least two conspicuous places in each judicial circuit in the Territory.

The attorney general may join as respondents in any information more than one such bank, trust company or fiduciary company together with all persons whose names appear in the reports of each such bank, trust company or fiduciary company so joined as being the last known owners of accounts therein.

Any person interested may appear in said cause and become a party thereto. At the hearing on said information the court shall hear and determine the issues therein, and make an appropriate decree thereon." [L. 1935, c. 192, s. 2; am. L. 1941, c. 210, s. 2.]

Section 3. Chapter 119 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding a new section thereto to be numbered and known as section 4238 and to read as follows:

"Sec. 4238. Unclaimed moneys held by trustees of dissolved corporations. If at any time after two years from the date of their appointment, the trustees for creditors and stockholders of any dissolved corporation shall hold any money for distribution to any persons who appear on the books and records of the corporation as stockholders entitled thereto, and the present addresses of said persons are unknown, the trustees shall make a written report, in sextuplicate, to the treasurer of the Territory, giving the names and last known addresses of such persons, as the same appear on the aforesaid books and records of the corporation, and the amount of money to which each such person is entitled. Said report shall be in such form as the treasurer may require. All moneys so held by the trustees shall be remitted to the treasurer, and the receipt of the treasurer shall relieve and release the trustees from any and further liability to any and all persons entitled thereto. All such moneys shall be deposited in the treasury, but at any time within five years after such deposit, any person who would have been entitled to any portion thereof if the same had not been so remitted, or his legal representative, upon making satisfactory proof to the auditor of the Territory of his right thereto, shall be entitled to receive the amount thereof, out of any moneys in the treasury not otherwise appropriated, upon warrant drawn by the auditor upon the treasurer. If all such amounts have not been claimed after five years, it shall be the duty of the treasurer to transmit the original and four copies of the report to the attorney general, and the attorney general shall file an information, in the name of the Terri-

tory, in the circuit court of the first judicial circuit. All applicable provisions of section 4236 shall apply to said information, and to the notice to be given thereon and the proceedings to be had thereunder; provided, in no case shall it be necessary to join the aforesaid trustees as respondents therein. Upon the entry of the appropriate decree, all such moneys, over and above the amount actually necessary to pay the costs of such proceeding, including advertising, shall thereupon escheat to the Territory and shall be deposited in the treasury, but subject to further claim for a period of five years, all in the manner as provided by section 4237, and subject to the provisions therein contained."

Section 4. The provisions of this Act shall be held applicable to any such information hereafter filed, and this so whether or not the report or reports upon which any such information is based were filed with the treasurer prior to the effective date of this Act.

Section 5. This Act shall take effect upon its approval.

(Approved May 12, 1941.) S.B. 434, Act 210.

CHAPTER 123A. JOINT OBLIGATIONS LAW.

[C-139] An Act Concerning the Discharge of Obligors Bound for the Same Debt or Liability, and to Make Uniform the Law Relating Thereto.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 4345.] Section 1. [Definitions; limitations of law.] In this Act, unless otherwise expressly stated, obligation does not include a liability in tort; obligor does not include a person liable for a tort; obligee does not include a person having a right based on a tort. Several obligors means obligors severally bound for the same performance.

[Sec. 4345A.] Section 2. [Co-obligor not discharged when.] A judgment against one or more of several obligors, or against one or more of joint, or of joint and several obligors shall not discharge a co-obligor who was not a party to the proceeding wherein the judgment was rendered.

[Sec. 4345B.] Section 3. [Crediting of payments made to obligee.] The amount or value of any consideration received by the obligee from one or more of several obligors, or from

one or more of joint, or of joint and several obligors, in whole or in partial satisfaction of their obligations, shall be credited to the extent of the amount received on the obligations of all co-obligors to whom the obligor or obligors giving the consideration did not stand in the relation of a surety.

[**Sec. 4345C.**] Section 4. [**Effect of obligee's release to one or more.**] Subject to the provisions of section 3, the obligee's release or discharge of one or more of several obligors, or of one or more of joint, or of joint and several obligors shall not discharge co-obligors, against whom the obligee in writing and as part of the same transaction as the release or discharge, expressly reserves his rights; and in the absence of such a reservation of rights shall discharge co-obligors only to the extent provided in section 5.

[**Sec. 4345D.**] Section 5. [**Effect of knowledge of obligee in making release.**] (a) If an obligee releasing or discharging an obligor without express reservation of rights against a co-obligor, then knows or has reason to know that the obligor released or discharged did not pay so much of the claim as he was bound by his contract or relation with that co-obligor to pay, the obligee's claim against that co-obligor shall be satisfied to the amount which the obligee knew or had reason to know that the released or discharged obligor was bound to such co-obligor to pay.

(b) If an obligee so releasing, or discharging an obligor has not then such knowledge or reason to know, the obligee's claim against the co-obligor shall be satisfied to the extent of the lesser of two amounts, namely (1) the amount of the fractional share of the obligor released or discharged, or (2) the amount that such obligor was bound by his contract or relation with the co-obligor to pay.

[**Sec. 4345E.**] Section 6. [**Executor or administrator of joint obligor bound.**] On the death of a joint obligor in contract, his executor or administrator shall be bound as such jointly with the surviving obligor or obligors.

[**Sec. 4345F.**] Section 7. **Act not retroactive.** This Act shall not apply to obligations arising prior to its effective date.

[**Sec. 4345G.**] Section 8. **Uniformity of interpretation.** This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states and territories which enact it.

[**Sec. 4345H.**] Section 9. **Short title.** This Act may be cited as the Uniform Joint Obligations Act.

Section 10. **Inconsistent laws repealed.** All Acts or parts of Acts inconsistent with this Act are hereby repealed.

Section 11. **Time of taking effect.** This Act shall take effect upon its approval.

(Approved April 21, 1941.) **S.B. 340, Act 60.**

CHAPTER 124.

LIENS.

MECHANICS AND MATERIALMEN.

[C-140] An Act Amending Section 4366 of the Revised Laws of Hawaii 1935, Relating to the Giving of Notice of Mechanics' Liens.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 4366** of the Revised Laws of Hawaii 1935, as amended by Act 150, Series C-106, of the Session Laws of Hawaii 1935, and by Act 34, Series C-109, of the Session Laws of Hawaii 1939, is hereby further amended by adding at the end thereof the following:

"Provided, however, that in cases where materials have been furnished or labor performed at the request, or upon the order, of a person acting under a duly executed and acknowledged power of attorney from the owner and such power of attorney has not been revoked; or if such power of attorney has been revoked subsequent to the furnishing of materials and labor upon such request or order, and the owner cannot be found within the Territory of Hawaii; the giving of a notice of lien to the person acting under such power of attorney shall be deemed the giving of such notice to the owner."

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1941.) **H.B. 472, Act 282.**

CHAPTER 127A. TORTFEASORS, CONTRIBUTION OF.

[C-141] An Act Concerning Contribution Among Tortfeasors, Release of Tortfeasors, Procedure Enabling Recovery of Contribution, and Making Uniform the Law With Reference Thereto.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 4430.] Section 1. **Joint tortfeasors defined.** For the purposes of this Act the term "joint tortfeasors" means two or more persons jointly or severally liable in tort for the same injury to person or property, whether or not judgment has been recovered against all or some of them.

[Sec. 4430A.] Section 2. **Right of contribution; accrual; pro rata share.**

(1) The right of contribution exists among joint tortfeasors.

(2) A joint tortfeasor is not entitled to a money judgment for contribution until he has by payment discharged the common liability or has paid more than his pro rata share thereof.

(3) A joint tortfeasor who enters into a settlement with the injured person is not entitled to recover contribution from another joint tortfeasor whose liability to the injured person is not extinguished by the settlement.

(4) When there is such a disproportion of fault among joint tortfeasors as to render inequitable an equal distribution among them of the common liability by contribution, the relative degrees of fault of the joint tortfeasors shall be considered in determining their pro rata shares.

[Sec. 4430B.] Section 3. **Judgment against one tortfeasor.** The recovery of a judgment by the injured person against one joint tortfeasor does not discharge the other joint tortfeasors.

[Sec. 4430C.] Section 4. **Release; effect on injured person's claim.** A release by the injured person of one joint tortfeasor, whether before or after judgment, does not discharge the other tortfeasors unless the release so provides; but reduces the claim against the other tortfeasors in the amount of the consideration paid for the release, or in any amount or proportion by which the release provides that the total claim shall be reduced, if greater than the consideration paid.

[Sec. 4430D.] Section 5. **Release; effect on right of contribution.** A release by the injured person of one joint tort-

feasor does not relieve him from liability to make contribution to another joint tortfeasor unless the release is given before the right of the other tortfeasor to secure a money judgment for contribution has accrued, and provides for a reduction, to the extent of the pro rata share of the released tortfeasor, of the injured person's damages recoverable against all the other tortfeasors.

[Sec. 4430E.] Section 6. **Indemnity.** This Act does not impair any right of indemnity under existing law.

[Sec. 4430F.] Section 7. **Third party practice, amended complaints, counterclaims and cross-complaints, and motion practice.**

(1) Before answering, a defendant seeking contribution in a tort action may move *ex parte* or, after answering, on notice to the plaintiff, for leave as a third-party plaintiff to serve a summons and complaint upon a person not a party to the action who is or may be liable as a joint tortfeasor to him or to the plaintiff for all or part of the plaintiff's claim against him. If the motion is granted and the summons and complaint are served, the person so served, hereinafter called the third-party defendant, shall make his defense to the complaint of the plaintiff and to the third-party complaint in the same manner as defenses are made by an original defendant to an original complaint. The third-party defendant may assert any defenses which the third-party plaintiff has to the plaintiff's claim. The plaintiff shall amend his pleadings to assert against the third-party defendant any claim which the plaintiff might have asserted against the third-party defendant had he been joined originally as a defendant. The third-party defendant is bound by the adjudication of the third-party plaintiff's liability to the plaintiff as well as of his own liability to the plaintiff and to the third-party plaintiff. A third-party defendant may proceed under this section against any person not a party to the action who is or may be liable as a joint tortfeasor to him or to the third-party plaintiff for all or part of the claim made in the action against the third-party defendant.

(2) When a counterclaim is asserted against a plaintiff he may cause a third party to be brought in under circumstances which under this section would entitle a defendant to do so.

(3) A pleader may either (a) state as a cross-claim against a co-party any claim that the co-party is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant; or (b) move for judgment for contribution against any other joint judgment debtor,

where in a single action a judgment has been entered against joint tortfeasors one of whom has discharged the judgment by payment or has paid more than his pro rata share thereof. If relief can be obtained as provided in this subsection no independent action shall be maintained to enforce the claim for contribution.

(4) The court may render such judgments, one or more in number, as may be suitable under the provisions of this Act.

(5) As among joint tortfeasors against whom a judgment has been entered in a single action, the provisions of section 2, subsection (4) of this Act apply only if the issue of proportionate fault is litigated between them by cross-complaint in that action.

[Sec. 4430G.] Section 8. **Constitutionality.** If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Sec. 4430H.] Section 9. **Uniformity of interpretation.** This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states and territories that enact it.

[Sec. 4430I.] Section 10. **Short title.** This Act may be cited as the Uniform Contribution Among Tortfeasors Act.

[Sec. 4430J.] Section 11. **Repeal.** All Acts or parts of Acts which are inconsistent with the provisions of this Act are hereby repealed.

Section 12. **Time of taking effect.** This Act shall take effect upon its approval.

(Approved April 14, 1941.) **S.B. 339, Act 24.**

Title XVII. DOMESTIC RELATIONS.

CHAPTER 128. ANNULMENT, DIVORCE AND SEPARATION.

PART 2. DIVORCE.

[C-142] An Act to Amend Section 4463 of the Revised Laws of Hawaii 1935, Relating to Service of Process in Annulment, Divorce or Separation Actions.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4463 of the Revised Laws of Hawaii 1935, as amended by Act 132, Series C-111 of the Session Laws of Hawaii 1939, is hereby further amended to read as follows:

"Sec. 4463. Personal service; by publication; enforcement of alimony. No person shall be entitled to an annulment, a divorce or a separation unless the libellee or defendant, except as hereinafter otherwise provided, shall have been served personally with process if within the territory, or shall have entered an appearance in the case; provided, that in any proceeding under this chapter for an annulment, a divorce or a separation, if it shall appear by return of the summons or by affidavit or otherwise to the satisfaction of the judge that the libellee or defendant is living at the time on any island of the territory on which there is no resident officer legally authorized to serve such process, or is without the territory, the judge may authorize notice of the pendency of the libel and of the time and place of hearing to be given to the libellee or defendant personally by such person and in such manner as he shall designate; or, if it shall further appear to his satisfaction by affidavit or otherwise, that libellant does not know the address or residence of the libellee or defendant, and has not been able to ascertain either after reasonable and due inquiry and search for fifteen days either before or after the filing of the libel, the judge may authorize notice to be given to the libellee or defendant by publication thereof at least once in each of three successive weeks in a newspaper or newspapers suitable for the advertisement of notices of judicial proceedings, published in the territory, and may hear and determine the case at or after the time specified in the notice, which shall not be less than thirty days after the giving of personal notice, or the last publication of the published notice, as the case may

be. All property within the territory of the libellee or defendant may by order of the court, be subjected to the enforcement of any judgment or order of the court obtaining jurisdiction by the method of service herein provided with respect to any allowance provided for in section 4453." [L. 1870, c. 16, s. 4; am. L. 1903, c. 22, s. 6; am. L. 1907, c. 109, s. 2; am. L. 1919, c. 43, s. 2; am. L. 1925, c. 121, s. 1; R. L. 1935, s. 4463; am. L. 1941, c. 217, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1941.) **H.B. 494, Act 217.**

[**Sec. 4463.** Also amended by following Act.]

[**C-143**] An Act to Amend Section 4463 of the Revised Laws of Hawaii 1935, Relating to Service of Process in Annulment, Divorce or Separation Actions.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 4463** of the Revised Laws of Hawaii 1935, as amended by Act 132, Series C-111, of the Session Laws of Hawaii 1939, is hereby further amended:

(1) By inserting therein, immediately after the word "defendant" in the 3rd line of said section, a comma and the words "except as hereinafter otherwise provided,"; and

(2) By inserting therein, immediately before the word "without" in the 7th line of said section, the words: "living at the time on any island of the territory on which there is no officer legally authorized to serve such process, or is".

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1941.) **H.B. 343, Act 180.**

[**Sec. 4463.** Also amended by preceding Act.]

CHAPTER 130. CHILDREN.**ILLEGITIMATE CHILDREN.**

[C-144] An Act Providing That Certain Children Shall Be Deemed Orphans for the Purpose of Taking Benefits.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 4529A.] Section 1. [Deemed to be orphans for certain purposes.] For the purpose of taking, or determining eligibility to take, any benefit under any law or under any private instrument by the terms of which orphans are eligible to receive benefits, a child born out of wedlock and not subsequently legitimated shall be deemed an orphan; provided, that nothing in this Act contained shall be construed (a) to deprive any such child of any rights of inheritance, or to support, or any other rights, to which such child would be entitled, or (b) to affect the liabilities of any other person with respect to any such child to which such person would be subject, if this Act had not been enacted.

Section 2. This Act shall take effect upon its approval.

(Approved May 16, 1941.) S.B. 154, Act 263.

CURFEW LAW.

[C-145] An Act to Amend Section 4531 of the Revised Laws of Hawaii 1935, Relating to Girls Loitering on Streets.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4531 of the Revised Laws of Hawaii 1935, is hereby amended by inserting after the word "Honolulu" appearing in the third line thereof the following: "or upon the public streets of Hilo".

Section 2. This Act shall take effect upon its approval.

(Approved April 21, 1941.) H.B. 350, Act 51.

CHAPTER 132. INDUSTRIAL AND REFORMATORY SCHOOLS.

[C-146] An Act to Amend Chapter 132 of the Revised Laws of Hawaii 1935, as Amended, by Adding a New Section Thereto to be Numbered 4580-A, Relating to the Guardianship of the Person of Children in the Industrial and Reformatory Schools, and Validating All Prior Acts of the Director of Institutions in Relation Thereto.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 132 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section numbered 4580-A, to read as follows:

“Sec. 4580-A. Guardianship of the person of inmates. Notwithstanding any law to the contrary, the director shall be the guardian of the person of every child committed to or received at the industrial and reformatory schools for the period such child shall remain under his jurisdiction. He shall have all the powers and duties of a natural guardian of the person of such child, provided however, that he shall not be liable in damages for the tortious acts committed by such child.”

Section 2. All prior acts of the director relative to the guardianship of the persons of children in the industrial and reformatory schools are hereby approved, ratified and confirmed, any other provisions of the law to the contrary notwithstanding.

Section 3. This Act shall take effect upon its approval.

(Approved April 15, 1941.) **S.B. 150, Act 31.**

COMMITMENT.

[C-147] An Act to Amend Section 4581 of the Revised Laws of Hawaii 1935, Relating to the Commitment of Offenders Under Eighteen Years to the Industrial and Reformatory Schools.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4581 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 4581. Offenders under eighteen years. The district magistrates, circuit courts and circuit judges may commit all offenders, under eighteen years of age, duly convicted before them, to industrial and reformatory schools for the term of their minority, in all cases where such district magistrates, circuit courts or circuit judges shall deem such sentence to be more suitable than the punishment otherwise authorized by law. Persons so committed may be discharged, released, or paroled by the director of institutions." [L. 1870, c. 41, s. 5; am. L. 1903, c. 7, s. 1; am. L. 1907, c. 30, s. 1; R. L. 1935, s. 4581; am. L. 1941, c. 141, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 1, 1941.) **S.B. 84, Act 141.**

LABOR BY CHILDREN.

[C-148] An Act to Amend Section 4591 of the Revised Laws of Hawaii 1935, as Amended by Act 203 of the Session Laws of Hawaii 1939; Relating to Putting Pupils at the Industrial and Reformatory Schools Out to Labor.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4591 of the Revised Laws of Hawaii 1935, as amended by Act 203 of the Session Laws of Hawaii 1939, is hereby further amended to read as follows:

"Sec. 4591. Put out to labor, when. Whenever it is found that apprenticeships cannot be obtained, or suitable employment be provided, at any industrial and reformatory school, for children over fifteen years of age, who shall have been committed or surrendered thereto for their minority, or sentenced for a shorter time, for any crime or misdemeanor, the director, or his agents, if authorized by the director, shall have authority to put them out to labor to families, or other suitable persons upon such terms and conditions as in the opinion of the director shall be deemed proper. Such action shall be in the nature of a parole, and shall be revocable at any time at the discretion of the director. It shall be the duty of the director to investigate and determine the advisability of such action in each case upon the written application of any parent or friend of any such child over fifteen years of age, and he may act without such written application in his own discretion. Where a child is so put out to labor, the director shall arrange to and receive at least one-half of the child's net earnings which shall

be deposited by the director in a bank in trust for the child during its minority, provided, however, that if a child so put out to labor shall, with the prior written approval of the director, voluntarily contribute a portion of its earnings to a purpose for its own best interest or its relatives' welfare then the director may arrange to and receive only one-half of the child's net earnings less the amount of such contributions. The term "net earnings" shall mean the total amount received less necessary living expenses. The necessary living expenses shall be determined by the director in each case.

When the director shall decide that an emergency exists and that it is for the child's best interests, or his relatives' welfare, he may, at the child's request, withdraw sums from any amounts so deposited in trust and permit the child to expend them subject to such directions as he may impose. Further, when any child shall incur any lawful obligation which the director deems unusual and which he may decide should immediately be paid, he may withdraw sums and discharge the obligation." [L. 1870, c. 41, s. 11; am. L. 1915, c. 81, s. 6; am. L. 1925, c. 81, s. 2; R. L. 1935, s. 4591; am. L. 1939, c. 203, pt. of s. 5; am. L. 1941, c. 17, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 11, 1941.) **S.B. 216, Act 17.**

[C-149] An Act to Amend Chapter 132 of the Revised Laws of Hawaii 1935, as Amended, by Adding a New Section Thereto to be Numbered and Known as Section 4591-A, to Authorize the Director of Institutions to Establish and Maintain a Monitor System and to Appoint and Pay for the Services of Monitors at Any Industrial and Reformatory School.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 132 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding a new section thereto to be numbered and known as 4591-A and to read as follows:

"Sec. 4591-A. Monitors; appointment; compensation. The director is authorized to establish and maintain a monitor system at any industrial and reformatory school and he may appoint as monitors children admitted or committed to such schools whose qualifications and behavior, in his opinion, merit

or justify such appointments. Their duties shall be such as are from time to time prescribed by the director and shall relate to the discipline, supervision or education of other children in such schools, provided, however, that the director and other officers or employees of the department shall continue to be responsible for the faithful performance of the respective duties of their offices or employments, and, provided, further, that the director and such officers or employees shall be responsible and liable on their respective official bonds for all acts done or performed by such monitors in the same manner and to the same extent as if no such appointments were made, and, provided, further, that all duties of such monitors shall be performed on the premises of such schools and be subject to the direction and control of the officers or employees at such schools. Subject to the provisions of section 641 and any other applicable provisions of law, moneys appropriated for any such school for personal services may be used and expended to pay such monitors for their services such sums of money as the director may determine, provided, however, that the amount paid to any monitor in any month shall not exceed the sum of \$10.00. Such monitors shall not be deemed to be persons in the public service of the Territory, or territorial employees within the meaning of that term as used in any territorial statute."

Section 2. This Act shall take effect on July 1, 1941.

(Approved April 21, 1941.) **S.B. 212, Act 56.**

ABDUCTION, DESERTION.

[C-150] An Act to Amend Chapter 132, Revised Laws of Hawaii 1935, as Amended by Act 203, Session Laws of Hawaii 1939, by Amending Section 4594 Thereof, Relating to the Enticing Away and Harboring of Children Under the Jurisdiction of the Industrial and Reformatory Schools.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4594 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 4594. Enticing, etc., penalty. Any person who shall knowingly or intentionally entice away any child from any industrial and reformatory school, or who shall knowingly harbor or secrete any child who shall have been enticed away, or who shall have deserted from any such school, or who shall

have left or forsaken his guardian, employer or the person with whom the child shall have been placed or stationed by the director of institutions without the permission of such guardian, employer or person, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment for not more than three months, or by both such fine and imprisonment.” [L. 1870, c. 41, s. 14; am. L. 1903, c. 8, s. 1; R. L. 1935, s. 4594; am. L. 1941, c. 106, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 25, 1941.) **S.B. 88, Act 106.**

[C-151] An Act to Repeal Section 4600 of the Revised Laws of Hawaii 1935, as Enacted by Act 35 (Series C-111) of the Session Laws of Hawaii 1935, as Amended by Act 203 (Series D-175) of the Session Laws of Hawaii 1939, Relating to Mental Examinations of Boys and Girls Committed to or Received by the Waialeale Training School for Boys and the Kawaihoa School for Girls.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 4600** of the Revised Laws of Hawaii 1935, as enacted by Act 35 (Series C-111) of the Session Laws of Hawaii 1935, as amended by Act 203 (Series D-175) of the Session Laws of Hawaii 1939, is hereby **repealed**.

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1941.) **S.B. 497, Act 232.**

CHAPTER 133. JUVENILE COURTS.

[C-152] An Act Amending Sections 4616, 4623, 4624 and 4625 of the Revised Laws of Hawaii 1935, Relating to Juvenile Crime Prevention Bureaus and Juveniles.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 4616** of the Revised Laws of Hawaii 1935, is hereby amended by amending the first sentence thereof to read as follows:

“No child under the age of 14 years shall be confined in any jail, or in any police station except as hereinafter next

provided. Any such minor may, however, be detained for investigation in the office or premises of any duly established juvenile crime prevention bureau, or, in districts in which there are no such duly established bureau offices, in any suitable portion of a police station other than the actual jail premises; any such minor may also be committed to the care or custody of any suitable person or duly appointed probation officer, who shall keep the child in any suitable place approved by the judge, outside of the enclosure of any jail."

Section 2. Sections 4623, 4624 and 4625 of said Revised Laws, as enacted by Act 193, Series C-114, of the Session Laws of Hawaii 1939, are hereby amended to read as follows:

"Sec. 4623. Duties and powers; reports. It shall be the duty of the juvenile crime prevention bureau to direct its attention specifically to the suppression, prevention and investigation of crimes committed by minors under the age of eighteen years, and any police officer shall have the power and authority to take and detain any such minor at said bureau or other suitable places for questioning and investigation. If it shall appear upon conclusion of such investigation that such minor has committed a crime, he shall be referred to a proper agency for treatment, and a written report of the findings of the officer shall be submitted to said agency. [L. 1939, c. 193, s. 2; am. L. 1941, c. 179, pt. of s. 2.]

Sec. 4624. No limitations on juvenile courts. Nothing in sections 4622 or 4623 contained shall be construed to divest juvenile courts of any of their powers, but the same shall specifically grant to the police departments of the several counties the power to take, detain, question, investigate and refer to appropriate social or other agencies, private or governmental, as the facts of the case appear to justify, minors under the age of eighteen years, suspected of crime. [L. 1939, c. 193, s. 3; am. L. 1941, c. 179, pt. of s. 2.]

Sec. 4625. Rules of court; personnel. The judges of juvenile courts shall make such rules and set up such standards of investigation and questioning as they consider necessary to guide the police in the handling of cases involving minors under the age of eighteen years." [L. 1939, c. 193, s. 4; am. L. 1941, c. 179, pt. of s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved May 8, 1941.) **H.B. 48, Act 179.**

Title XVIII. EQUITY AND PROBATE.

CHAPTER 135. EQUITY: JURISDICTION AND PROCEDURE.

PROCEDURE.

[C-153] An Act to Amend Chapter 135 of the Revised Laws of Hawaii 1935, Relating to Equity Jurisdiction and Procedure, by Amending Sections 4703, 4704 and 4706 Thereof and by Adding a New Section Thereto to be Known as Section 4706-A.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 135 of the Revised Laws of Hawaii 1935 is hereby amended by amending section 4703 thereof to read as follows:

"Sec. 4703. Sworn bill or petition, etc. Suits in equity shall be commenced by sworn bill or petition according to the usual course of proceedings in equity, and shall be returnable on the rule days established by the judges. The material facts and circumstances shall be stated with brevity, omitting immaterial and irrelevant matters." [Laws 1878, c. 15, s. 3; R. L. 1935, s. 4703; am. L. 1941, c. 258, s. 1.]

Section 2. Chapter 135 of said Revised Laws is hereby further amended by amending section 4704 thereof to read as follows:

"Sec. 4704. Additional parties; unknown parties. Where a proceeding in equity involves or concerns any property, tangible or intangible, within the jurisdiction of the court, or any legal or equitable estate, right or interest, vested or contingent, in any such property, any person having or claiming to have any legal or equitable estate, right or interest, vested or contingent, in such property or any part thereof, or any lien or incumbrance upon or affecting such property, in whole or in part, or any inchoate right of dower, not joined as a party in the bill or petition as filed, may become a party by appearing and filing answer in such proceeding, or otherwise by intervention as the judge may allow, but in no case after judgment or decree has been given and filed in the records of the clerk of the court, and may by appropriate pleading set forth the estate, right or interest, vested or contingent, claimed in

such property, or the lien or incumbrance asserted against the same, or the inchoate right of dower, together with any defense against the bill or petition. All persons interested in any manner or who may claim any interest in any such property, whose names are unknown to the petitioner, may be made parties to the suit by the name and description of unknown owners or claimants, who may be designated by fictitious names, and when their true names shall become known the same may be inserted as though correctly stated in the first instance." [C. C. 1859, s. 1228; am. L. 1921, c. 45, s. 1; R. L. 1935, s. 4704; am. L. 1941, c. 258, s. 2.]

Section 3. Chapter 135 of said Revised Laws is hereby further amended by amending section 4706 thereof to read as follows:

"Sec. 4706. Substituted service. (a) If any respondent cannot be found, process may be served upon him in such manner as the judge may direct. The judge may provide for such service by publication of a notice of the pendency of the proceeding in some newspaper of general circulation in the judicial circuit in which the proceeding has been instituted. If the proceeding concerns real property, the judge may provide for such service by leaving a certified copy of the petition and of the summons upon the premises involved in the controversy.

(b) If any respondent was never a resident of the Territory, or has removed therefrom, or if there are or may be unknown owners or claimants, having or who might have any legal or equitable estate, right or interest, vested or contingent, in the subject-matter of the proceeding or being or who might be otherwise concerned in the proceeding, and the facts shall appear, by affidavit or otherwise, to the satisfaction of the judge, he may order that service upon such respondent or such unknown owners or claimants, be made by publication of a notice of the pendency of the proceeding.

(c) In any case of service by publication upon any designated respondent or respondents or any unknown owners or claimants pursuant to this section, such publication shall be made in some newspaper of general circulation in the judicial circuit in which the proceeding has been instituted, for such length of time as the judge may deem reasonable, not less than once a week in four successive weeks, the last publication to be not less than twenty-one days prior to the return date stated in the notice, and the notice shall call upon the designated respondent or respondents, or the unknown owners or claimants, and also all persons generally, known or unknown, having or claiming any legal or equitable estate, right or in-

terest, vested or contingent, in the subject-matter of the proceeding or otherwise concerned in the proceeding, to answer, demur or otherwise plead to the bill or petition filed in the proceeding, which bill or petition shall be referred to in the notice, on or before a return day determined by the judge, which return day shall be stated in the notice, and the notice shall also contain a general statement and brief description of the nature and the subject-matter of the proceeding.

(d) If any respondent was never a resident of the Territory, or has removed therefrom, and if the residence of such respondent be known, or shall be ascertained after publication of notice pursuant to subsection (b) of this section has been ordered, the judge may order that service be made upon such respondent (1) by making personal service upon him, either within or without the Territory, of a certified copy of the bill or petition and of the summons and of an order providing for such service, which order shall state the return day pursuant to such service or (2) by sending a certified copy of the bill or petition and of the summons and of such order, by registered mail, addressed to him, with request for return receipt, which service, evidenced by such receipt signed by such respondent and returned to the clerk of the court, shall be regarded as equivalent to service by publication, or in lieu thereof. Notwithstanding that the address of any such respondent may be known or may be ascertained as aforesaid, service upon such respondent may be made in the manner provided in subsection (b) of this section. In case such respondent shall be served in the manner provided in this subsection, then it shall not be necessary to also make service upon him by publication.

(e) This section shall not apply to process or the service thereof in any proceedings brought under the provisions of chapter 137 or in any proceedings to which this section could not constitutionally be applied under the Constitution of the United States." [C. C. 1859, s. 1230; am. L. 1903, c. 5, s. 1; am. L. 1921, c. 46, s. 1; am. L. 1929, c. 44, s. 1; am. L. 1931, c. 22, s. 1; R. L. 1935, s. 4706; am. L. 1941, c. 258, s. 3.]

Section 4. Chapter 135 of said Revised Laws is hereby further amended by adding thereto a new section, to be known as section 4706-A, and to read as follows:

"Sec. 4706-A. Class representation; process. (a) Where the number of necessary or proper respondents in a proceeding in equity is so great as to involve great expense or inconvenience in naming or serving them as individuals, the judge may, prior to the issuance of summons or at any time thereafter, upon a proper showing of such number and expense or

inconvenience and of the propriety of certain respondents being named and constituted the representatives of any or all of the remaining respondents, as a class, make and enter an order of class representation naming and constituting certain respondents as representatives of any or all of the remaining respondents, as a class. In such case, if the interest of some of the respondents in the proceeding is different than the interest of others of the respondents in the proceeding, the order of class representation may provide for two or more classes and, with respect to any such class (one or more), may name and constitute certain respondents in such class as representatives of the remaining respondents of the same class. In any case as aforesaid, service, whether personal or by publication or by registered mail and whether made prior to or after such order of class representation, upon the respondents named and constituted as representatives of any or all of the remaining respondents, as a class, shall constitute service upon such remaining respondents for whom they are named and constituted as representatives.

(b) Where all known respondents in a proceeding in equity have been served, whether personally or by publication or by registered mail, the judge may, at any time thereafter, upon a proper showing that all or certain of said respondents who have appeared in said proceeding, in person or by attorney or by guardian ad litem, may properly be named and constituted the representatives of any or all of the known respondents who have not appeared and who are, or of any unknown persons or any unborn person who might be or become, similarly situated with them as a class, make and enter an order of class representation naming and constituting said respondents who have so appeared as representatives of said known respondents who have not appeared or of such unknown persons or such unborn persons, as a class. In such case, if the interest of some of the respondents in the proceeding is, or the interest of some of such unknown or unborn persons might be or become, different than the interest of others of said respondents or of such unknown persons or such unborn persons, the order of class representation may provide for two or more classes and, with respect to any such class (one or more), may name and constitute certain respondents in such class who have appeared the representatives of known respondents in the same class who have not appeared or of unknown persons or unborn persons who might be or become similarly situated with them.

(c) Any person who is represented as a member of a class in any proceeding, by any other person, pursuant to the provisions of subsection (a) or subsection (b) of this section,

may terminate such representation as to him but not as to other members of the class also represented, by appearing in such proceeding or by attorney or by guardian ad litem.

(d) This section shall not apply in any proceeding to which this section could not constitutionally be applied under the Constitution of the United States."

Section 5. This Act shall take effect upon its approval.

(Approved May 15, 1941.) **S.B. 416, Act 258.**

TRUSTEES AND GUARDIANS.

[C-154] An Act to Amend Section 4715 of the Revised Laws of Hawaii 1935 Relating to Investments by Guardians or Trustees Other Than Trust Companies.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 4715 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 4715. Investments. Every guardian or trustee, other than a trust company acting as such, except in so far as the terms of the instrument or words creating or defining the trust specifically provide otherwise, or unless it is otherwise ordered by the court, which order may be made on an ex parte hearing, shall invest the funds of the guardianship or trust only in the investments authorized in the cases of trust companies acting as guardians or trustees under the provisions of section 6909, and with respect to all investments and the security for the same every such guardian or trustee shall have and be subject to the same rights, powers, privileges, duties, obligations and responsibilities as would apply to trust companies acting as guardians or trustees as to similar investments and the security for the same under said section; provided, that nothing in this section contained shall be deemed to authorize any guardian or trustee other than a trust company to issue participation certificates or notes, and provided further that any investment heretofore or hereafter made by any such guardian or trustee under order by the court heretofore or hereafter made on an ex parte hearing or otherwise may be held during the life of the trust or guardianship or lesser period unless the terms of the instrument or words

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creating or defining the trust or the terms of the order of the court or of any subsequent order of the court specifically provide otherwise." [L. 1933-4, c. 47, s. 1; R. L. 1935, s. 4715; am. L. 1941, c. 154, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 3, 1941.) **S.B. 351, Act 154.**

[C-155] An Act Relating to the Rights of Certain Fiduciaries to Request and Receive Instructions, or to Have Their Accounts Approved, or to be Discharged, in Equity.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 4716.] Section 1. [Fiduciaries may receive instructions and approval of accounts.] A trustee or assignee for creditors shall have the same right, by application to a court of equity, to request and receive instructions or to have his accounts approved or be discharged from his trust, as any other fiduciary, according to the usual procedure in equity concerning trusts.

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1941.) **S.B. 471, Act 292.**

**CHAPTER 139. PROBATE:
JURISDICTION AND PROCEDURE.**

FAMILY ALLOWANCE.

[C-156] An Act to Amend Section 4783 of the Revised Laws of Hawaii 1935, Relating to Family Allowance and the Rights of the Surviving Spouse and Certain Dependents to Temporary Use of Certain Property of the Deceased.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 4783** of the Revised Laws of Hawaii 1935, is hereby amended by amending subsections 1, 2 and 3 thereof to read as follows:

"1. When a person dies, leaving a widow or widower or other members of his or her family living in his or her home and dependent upon the decedent for maintenance and support, such person or persons shall be entitled to have possession of the home and of all the wearing apparel and other personal effects and household furniture and effects of the decedent, until such time as the executor or administrator shall in his discretion terminate such possession.

2. The court or judge shall make such reasonable allowance out of the estate as shall be necessary, for the persons enumerated in subsection 1 of this section, and for other members of the decedent's family dependent upon him or her, according to their circumstances and the relationship which they bear to the decedent, during the progress of the administration of the estate, which allowance, in case of an insolvent estate, shall not be longer than one year after granting letters testamentary or of administration.

3. Any allowance made by the court or judge in accordance with the provisions of this section must be paid in preference to all other charges, except funeral charges and expenses of administration, and any such allowance whenever made, may, in the discretion of the court or judge, take effect from the death of the decedent."

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1941.) **S.B. 354, Act 291.**

ESTATES OF LEPERS.

[C-157] An Act to Amend Sections 4794, 4795, 4796 and 4797 of the Revised Laws of Hawaii 1935, Relating to the Distribution of the Personal Estate of Deceased Lepers by the Board of Hospitals and Settlement.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 4794** of the Revised Laws of Hawaii 1935, is hereby amended by deleting all of said section following the seventh line thereof and inserting in lieu of same the following:

"to the persons having claims as heirs or creditors of decedent who prove their claims to the satisfaction of the board. Before any such distribution shall be made, notice shall be given to any and all persons having any claim to or upon any of such

property, or against the decedent, to appear and file claims with the board, by one publication in a newspaper of general circulation in the Territory or by posting in three or more conspicuous places in the Territory. Any such notice may relate to more than one estate, and it shall be addressed to the aforementioned claimants, and shall state the name of decedent or decedents, the approximate value of such property to be distributed, the time for filing of claims and the place where claims may be filed. All costs of publication shall be paid out of the estate or, pro rata, out of the estates."

Section 2. Section 4795 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 4795. Claims presented in six months. All such claims not presented or filed with the board within six months after the date of publication or posting of notice shall be forever barred; provided, however, the board may, in its discretion, waive the requirement of presenting or filing claim as to any person whom it has determined upon investigation to be an heir of decedent." [L. 1913, c. 105, s. 2; R. L. 1935, s. 4795; am. L. 1941, c. 290, s. 2.]

Section 3. **Section 4796** of the Revised Laws of Hawaii 1935, is hereby amended by adding to the end thereof the following:

"Any money or other personal property remaining, if any, shall be distributed by the board to the aforesaid heirs of decedent who have filed claims therefor or whose failure to so file claims has been waived as hereinabove provided, in such proportions as are provided by the laws relating to the distribution of estates of intestates, and the board may convert such other personal property into cash, or so much thereof as may be necessary to effect such distribution.

When any such heir is a minor or is under other legal disability, and no guardian or special guardian of his estate shall have been appointed, and the value of the money and other personal property to be distributed to him does not exceed the sum of two hundred fifty dollars, the board may pay or turn over such money or other personal property to his natural guardian, or to some suitable person with whom he resides, for his use and benefit, and be thereby relieved, acquitted and discharged from any and further liability therefor."

Section 4. Section 4797 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 4797. Balance deposited in treasury. The balance of

any such personal property or moneys, remaining after the payment of all claims made within the time hereby limited and all claims where filing has been waived as hereinabove provided, shall become a government realization, and the board shall convert such personal property, if any, into cash and deposit the whole in the treasury of the Territory." [L. 1913, c. 105, s. 4; am. L. 1931, c. 202, s. 3; R. L. 1935, s. 4797; am. L. 1941, c. 290, s. 4.]

Section 5. As to all estates pending on the effective date of this Act, notices of which have been published or posted as required by said section 4794 prior to its amendment herein, shall be distributed in the manner required by and in conformity with the provisions of said sections 4794, 4795, 4796 and 4797 prior to their amendment herein; provided, however, that in any such case, the board may waive the requirement of presenting or filing claims as to any person whom it shall have determined, upon investigation, to be an heir of any decedent; and provided, further, that it may also make distribution to the natural guardian of any minor or other person under legal disability, or to some suitable person with whom he resides, as provided in the amendments contained in this Act and in the same manner and with like force and effect; and provided, further, the persons filing claims as heirs or creditors of decedent shall prove their claims to the satisfaction of the board.

Section 6. This Act shall take effect upon its approval.

(Approved May 19, 1941.) **S.B. 334, Act 290.**

UNADMINISTERED SMALL ESTATES.

[C-158] An Act to Amend Chapter 139 of the Revised Laws of Hawaii 1935, Relating to Unadministered Small Estates.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 139 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended in the following particulars and respects:

(a) By amending section 4799 thereof to read as follows:

"Sec. 4799. Publication by clerk of appointment as administrator, notice to creditors, heirs, etc. Upon such appointment it shall be the duty of the clerk to publish such fact

by posting a notice thereof at the front entrance of the circuit court house of the circuit and by advertising such notice in the English language at least once in a newspaper of general circulation in such circuit, such notice to state briefly that creditors of such estate must file with said clerk duly verified claims within sixty days from the date of such publication, and that all persons claiming to be heirs of said estate are requested to file with said clerk notice of such claims within said period. The judge of the court shall have authority to direct that the advertising of the notice in a newspaper need not be made if he deems the same unnecessary." [L. 1917, c. 91, pt. of s. 1; am. L. 1923, c. 92, s. 2; am. L. 1933, c. 93, s. 2; R. L. 1935, s. 4799; am. L. 1941, c. 162, pt. of s. 1.]

(b) By amending section 4800 thereof to read as follows:

"Sec. 4800. Presentation of claims of creditors. All creditors of such deceased persons shall present their claims, duly verified under oath, to the clerk within sixty days from the date of the publication." [L. 1917, c. 91, pt. of s. 1; am. L. 1933, c. 93, s. 3; R. L. 1935, s. 4800; am. L. 1941, c. 162, pt. of s. 1.]

(c) By amending section 4801 thereof to read as follows:

"Sec. 4801. Claims barred when. All claims of creditors not filed within the period of sixty days from the date of such publication shall be forever barred." [L. 1917, c. 91, pt. of s. 1; am. L. 1933, c. 93, s. 4; R. L. 1935, s. 4801; am. L. 1941, c. 162, pt. of s. 1.]

(d) By amending section 4802 thereof to read as follows: *Am. Sec. 4802*

"Sec. 4802. Duties of clerk and distribution. It shall be the duty of the clerk to make diligent effort to ascertain the names and whereabouts of the heirs-at-law, or the whereabouts of the devisees or legatees, as the case may be, of the deceased person and to present evidence relating thereto to the court having jurisdiction of the proceedings. After the expiration of sixty days after such publication the clerk shall pay or distribute the money, funds or property of the estate, or any balance thereof, after the payment of creditors' claims presented within the time limited in section 4801, to or among such persons as may be found by the judge of the court sitting at chambers in probate, to be the persons entitled thereto as legatees, devisees or distributees." [L. 1917, c. 91, pt. of s. 1; am. L. 1933, c. 93, s. 5; R. L. 1935, s. 4802; am. L. 1941, c. 162, pt. of s. 1.]

(e) By amending section 4803 thereof to read as follows:

"Sec. 4803. Undistributed proceeds or balances, disposition. When any balance remains in the hands of the clerk, after payment of all creditors' claims presented within the time limited in section 4801, and no heirs-at-law, or devisees or legatees of the decedent, entitled to such balance, can be located after reasonable search and inquiry, the clerk, after the expiration of one year after such publication, shall report such fact to the court, which shall forthwith enter an order escheating such property to the county in which such circuit court has jurisdiction, and the clerk thereupon shall immediately deposit the money or funds, or any balance, with the treasurer of such county. The board of supervisors of such county, at any time within five years after the entry of such order of escheat, may by resolution authorize the payment, out of the general fund of such county, of any amount so escheated to any person who shall establish to the satisfaction of said board that he is morally entitled thereto as an heir, devisee, or legatee of such decedent." [L. 1917, c. 91, pt. of s. 1; am. L. 1929, c. 51, s. 1; R. L. 1935, s. 4803; am. L. 1941, c. 162, pt. of s. 1.]

(f) By amending section 4804 thereof to read as follows:

"Sec. 4804. Exemption from costs. All proceedings had under and by virtue of sections 4798 to 4804 inclusive shall be free from all costs, except for the cost of advertising the notice specified in section 4799, the cost of which shall be payable from the funds coming into the hands of the clerk; provided, however, that if it is necessary to sell any property of the estate coming into the hands of the clerk the cost of publication of any notice of sale of such property which may be ordered by the court may also be paid from the funds of the estate." [L. 1917, c. 91, pt. of s. 1; am. L. 1923, c. 92, s. 3; R. L. 1935, s. 4804; am. L. 1941, c. 162, pt. of s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 6, 1941.) **H.B. 431, Act 162.**

[C-159] An Act to Amend Act 177 of the Session Laws of Hawaii 1939, Relating to Coroners.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 177 [Sec. 4805] of the Session Laws of Hawaii 1939, is hereby amended by amending the first sentence of Section 1 thereof to read as follows:

"It shall be the duty of every coroner, who is called to investigate the death of any person leaving no known major relatives in the Territory, to take immediate charge of such decedent's personal effects and forthwith to deliver them to the clerk of the circuit court of the circuit in which such decedent died."

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1941.) S.B. 290, Act 222.

CHAPTER 140A. DESCENT OF PROPERTY.

(Uniform Simultaneous Death Act.)

[C-160] An Act Providing for the Disposition of Property Where There is no Sufficient Evidence That Persons Have Died Otherwise Than Simultaneously, and to Make Uniform the Law With Reference Thereto.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 4826.] Section 1. **No sufficient evidence of survivorship.** Where the title to property or the devolution thereof depends upon priority of death and there is no sufficient evidence that the persons have died otherwise than simultaneously, the property of each person shall be disposed of as if he had survived, except as provided otherwise in this Act.

[Sec. 4826A.] Section 2. **Beneficiaries of another person's disposition of property.** Where two or more beneficiaries are designated to take successively by reason of survivorship under another person's disposition of property and there is no sufficient evidence that these beneficiaries have died otherwise than simultaneously the property thus disposed of shall be divided into as many equal portions as there are successive beneficiaries and these portions shall be distributed respectively to those who would have taken in the event that each designated beneficiary had survived.

[Sec. 4826B.] Section 3. **Joint tenants or tenants by the entirety.** Where there is no sufficient evidence that two joint tenants or tenants by the entirety have died otherwise than

simultaneously the property so held shall be distributed one-half as if one had survived and one-half as if the other had survived. If there are more than two joint tenants and all of them have so died the property thus distributed shall be in the proportion that one bears to the whole number of joint tenants.

[**Sec. 4826C.**] Section 4. **Insurance policies.** Where the insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died otherwise than simultaneously the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.

[**Sec. 4826D.**] Section 5. **Act not retroactive.** This Act shall not apply to the distribution of the property of a person who has died before it takes effect.

[**Sec. 4826E.**] Section 6. **Act does not apply if decedent provides otherwise.** This Act shall not apply in the case of wills, living trusts, deeds, or contracts of insurance wherein provision has been made for distribution of property different from the provisions of this Act.

[**Sec. 4826F.**] Section 7. **Uniformity of interpretation.** This Act shall be so construed and interpreted as to effectuate its general purpose to make uniform the law in those states and territories which enact it.

[**Sec. 4826G.**] Section 8. **Short title.** This Act may be cited as the Uniform Simultaneous Death Act.

Section 9. **Repeal.** All laws or parts of laws inconsistent with the provisions of this Act are hereby repealed.

Section 10. **Severability.** If any of the provisions of this Act or the application thereof to any persons or circumstances is held invalid such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared to be severable.

Section 11. **Time of taking effect.** This Act shall take effect upon its approval.

(Approved April 22, 1941.) **S.B. 241, Act 74.**

CHAPTER 142. GUARDIANS AND WARDS.

GUARDIANS OF INSANE PERSONS AND SPENDTHRIFTS.

[C-161] An Act to Amend Section 4859 of the Revised Laws of Hawaii 1935, as Amended by Act 100 of the Session Laws of Hawaii 1939, Relating to the Appointment of Guardians of Insane Persons.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 4859** of the Revised Laws of Hawaii 1935, as amended by Act 100 of the Session Laws of Hawaii 1939, is hereby further amended by deleting the last two sentences of said section and inserting in lieu thereof the following:

“In case it shall appear by return of the summons or by affidavit to the satisfaction of the judge that no such person can be found, the judge may appoint a guardian ad litem to protect the interest of the supposed insane person and cause such notice to be given to such guardian ad litem. If after a full hearing it shall appear to the judge that the person in question is insane, the judge shall appoint a guardian of his person or estate or both, with the powers and duties hereinafter specified, and, in case of the appointment of a guardian ad litem, provide for the compensation and reasonable and necessary expenses of such guardian ad litem.”

Section 2. This Act shall take effect upon its approval.

(Approved April 23, 1941.) **S.B. 201, Act 78.**

Title XIX. LAND COURT: REGISTRATION OF CONVEYANCES; NOTARIES, ETC.

CHAPTER 144. LAND COURT AND REGISTRATION.

[C-162] An Act to Amend Section 5030 of the Revised Laws of Hawaii 1935, Relating to Land Court.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5030 of the Revised Laws of Hawaii 1935, is hereby amended by amending the first paragraph thereof to read as follows:

“Sec. 5030. Reference to other judges or to master; maps, reference; subdivision; costs; etc. If in any case an appearance is entered and answer filed, the cause shall be set down for hearing on the motion of either party, but an order of default shall first be entered against all persons who do not appear and answer, in the manner provided in section 5029. If the land is located in any circuit without the island of Oahu the court may refer the cause or any part thereof (including presiding at return days referred to in sections 5024, 5025, 5029) to the judge presiding in the circuit in which the land may be located as part of his calendar duties as judge to make record of appearances, grant continuances and to record defaults, or to hear the parties and their evidence, and make report thereof to the court. In any case where the land to be registered or any part thereof shall be located within either the third or the fourth judicial circuits, or within both said circuits, the judge of the land court may refer the cause to the judge of either the third or the fourth judicial circuit courts. The report of the judge to whom such reference shall be made shall have the same weight as that of a master appointed by the judge of the circuit court in chambers, and the judge of the land court shall proceed thereon to ratify, affirm or modify the decision or orders performed under such reference as may be proper on the record. Such reference hereunder may be revoked or modified at any time.”

Section 2. This Act shall take effect on its approval.

(Approved April 15, 1941.) **S.B. 121, Act 30.**

CHAPTER 145. BUREAU OF AND REGISTRATION OF CONVEYANCES.

PLANS AND SURVEYS.

[C-163] An Act Amending Section 5126 of the Revised Laws of Hawaii 1935, Relating to the Sale or Lease of Lands by Reference to Lots or Blocks.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5126 of the Revised Laws of Hawaii 1935, is hereby amended by substituting for the number "145", constituting the last word of said section, the number "144".

Section 2. This Act shall take effect upon its approval.

(Approved April 26, 1941.) **H.B. 396, Act 114.**

ACKNOWLEDGMENTS.

[C-164] An Act to Amend Section 5145 of the Revised Laws of Hawaii 1935, Relating to Certificates of Acknowledgement to Instruments and Providing Penalties for Incorporating in Any Such Certificate Any False or Misleading Statement.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5145 of the Revised Laws of Hawaii 1935, is hereby amended by deleting the word "hundred" appearing in the fifth line thereof, and substituting therefor the word "thousand", and by deleting the words "not to exceed two months" appearing in the fifth line thereof, and substituting therefor the words "for not more than one year".

Section 2. This Act shall take effect upon its approval.

(Approved April 14, 1941.) **S.B. 238, Act 22.**

[Sec. 5151. Disposition of Records. Amended by Act 322, infra, page 221.]

CHATTEL MORTGAGE.

[C-165] An Act to Amend Section 5158 of the Revised Laws of Hawaii 1935, Relating to Recording of Mortgages and Other Conveyances of Personal Property.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 5158** of the Revised Laws of Hawaii 1935, is hereby amended by deleting the period at the end of said section and inserting in lieu thereof a semicolon and the following proviso:

“provided that, where a mortgagee or transferee of a motor vehicle is registered as legal owner of such motor vehicle under part 2 of chapter 83, the mortgage or other conveyance by which the interest of such mortgagee or transferee was acquired shall not be deemed invalid as against any such creditors or subsequent purchasers or mortgagees by reason of failure to record the same under this section; but, in any case where a mortgage or other conveyance of such motor vehicle is not recorded in said bureau under this section, it shall be the duty of the mortgagee, or transferee, upon demand by any creditor, purchaser or other mortgagee of or from the mortgagor, to disclose such mortgage or other conveyance to such demandant.”

Section 2. This Act shall take effect upon its approval.

(Approved April 29, 1941.) **H.B. 88, Act 124.**

**CHAPTER 147. CONSTRUCTION
OF CONVEYANCES
TO TWO OR MORE.**

[C-166] An Act to Amend Chapter 147 of the Revised Laws of Hawaii 1935 by Adding Thereto a New Section Numbered 5181 Relating to the Creation of Joint Tenancies or Tenancies by the Entirety.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 147 of the Revised Laws of Hawaii 1935, is hereby amended by adding thereto a new section to be numbered 5181 and to read as follows:

"Sec. 5181. Creation of joint tenancy and tenancy by the entirety. Land, or any interest therein, or any other type of property or property rights or interests or interest therein, may be conveyed by a person to himself and another, or others, as joint tenants, or to himself and his spouse as tenants by the entirety, or by tenants in common to themselves or themselves and others as joint tenants, without the necessity of conveying through a third party, and each such instrument shall be construed as validly creating a joint tenancy or a tenancy by the entirety, as the case may be, if the tenor of the instrument manifestly indicates an intent to create such tenancy."

Section 2. This Act shall take effect upon its approval.

(Approved May 7, 1941.) **H.B. 473, Act 167.**

CHAPTER 149. NOTARIES PUBLIC.

[C-167] An Act Relating to Notaries Public.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 149 of the Revised Laws of Hawaii 1935, is hereby amended by amending section 5200 thereof to read as follows:

"Sec. 5200. Appointment; tenure; number. The attorney general may, in his discretion, appoint and commission such number of notaries public for the several judicial circuits of the Territory as he shall deem necessary for the public convenience, provided, however, that for the first judicial circuit the number shall not exceed three hundred and in each of the other judicial circuits seventy-five, and provided, further, that, with the approval of the governor, the attorney general may appoint and commission notaries public in excess of such numbers, not to exceed fifty in any judicial circuit, when urgent necessity exists therefor. The term of office of a notary public shall be four years from the date of his commission, unless sooner removed by the attorney general for cause after due hearing." [C. C. 1859, s. 1266; am. L. 1887, c. 11, s. 1; am. L. 1929, c. 3, s. 1; R. L. 1935, s. 5200; am. L. 1941, c. 322, s. 1.]

Section 2. Chapter 149 of the Revised Laws of Hawaii 1935, is hereby amended by amending section 5201 thereof to read as follows:

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173 S.L. **"Sec. 5201. Qualifications; oath.** Every person appointed a notary public must, at the time of his appointment, possess the qualifications required of public officers and, in addition, be twenty-one years of age and a resident of the judicial circuit for which he is appointed. Every person appointed to that office shall, before entering thereon, take and subscribe an oath for the faithful discharge of his duties, which oath shall be filed in the department of the attorney general." [C. C. 1859, s. 1267; R. L. 1935, s. 5201; am. L. 1941, c. 322, s. 2.]

Section 3. Chapter 149 of the Revised Laws of Hawaii 1935, is hereby amended by amending section 5202 thereof to read as follows:

"Sec. 5202. Seal. Every notary public shall constantly keep a seal of office, whereupon shall be engraved his name, and the words, 'notary public' and 'Territory of Hawaii'. He shall authenticate all of his official acts, attestations, certificates and instruments therewith, and shall always add to his official signature a statement showing the circuit for which he is commissioned and the date of expiration of his commission as such notary public. Upon resignation, death, expiration of term of office without reappointment, removal from or abandonment of office, or change of residence from the judicial circuit for which he is appointed, he shall immediately deliver his seal to the attorney general who shall deface or destroy the same. By a neglect of sixty days to comply with the above requisition, the notary public, his executor or administrator, shall forfeit to the Territory not more than two hundred dollars, in the discretion of the court, to be recovered in an action to be brought by the attorney general on behalf of the Territory." [C. C. 1859, s. 1268; R. L. 1935, s. 5202; am. L. 1941, c. 322, s. 3.]

Section 4. Chapter 149 of the Revised Laws of Hawaii 1935, is hereby amended by adding thereto six new sections to be numbered and known as sections 5202-A, 5202-B, 5202-C, 5202-D, 5202-E and 5202-F and to read as follows:

"Sec. 5202-A. Filing copy of commission; authentication of acts. It shall be the duty of each person appointed and commissioned a notary public under the provisions of this chapter to forthwith file a literal or photostatic copy of his commission, an impression of his seal and a specimen of his official

signature with the clerk of the circuit court of the judicial circuit for and in which he is commissioned to act. Thereafter such clerk, when thereunto requested, shall certify to the official character and acts of any such notary public whose commission, impression of seal and specimen of official signature is so filed in his office.

Sec. 5202-B. Official bond. Each notary public forthwith and before entering upon the duties of his office shall execute, at his own expense, an official surety bond which, for the first judicial circuit, shall be in the sum of one thousand dollars and, for the other judicial circuits, shall be in the sum of five hundred dollars. Each such bond must be approved by the judge of the circuit court of the judicial circuit for and in which any such notary public is commissioned to act.

The obligee of each such bond shall be the Territory of Hawaii and the condition contained therein shall be that the notary public will well, truly and faithfully perform all the duties of his office which are then or may thereafter be required, prescribed or defined by law or by any rule or regulation made under the express or implied authority of any statute, and all duties and acts undertaken, assumed or performed by the notary public by virtue or color of his office. The surety on any such bond shall be a surety company authorized to do business in the Territory. After approval the bond shall be deposited and kept on file in the office of the clerk of the circuit court of the judicial circuit for and in which the said notary public is commissioned to act. The clerk of each circuit court shall keep a book to be called the 'bond record', in which he shall record such data in respect to each of such bonds deposited and filed in his office as the treasurer of the Territory records in respect to other bonds under section 137.

Sec. 5202-C. Liabilities on official bond. For the official misconduct or neglect of a notary public or breach of any of the conditions of his official bond, he and the surety on his official bond shall be liable to the party injured thereby for all the damages sustained. Such party shall have a right of action in his own name upon such bond and may prosecute the same to final judgment and execution.

Sec. 5202-D. Acts prohibited; penalties. No person shall be qualified to act as a notary public or shall enter upon any of the duties of such office or offer or assume to perform any such duties until he shall have fully complied with each of the requirements in each of the foregoing sections of this

chapter. Any person wilfully violating any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than one year, or both. Nothing in this section contained shall be construed to restrict or to do away with any liability for civil damages.

Sec. 5202-E. Rules. The attorney general, with the approval of the governor, shall have power to prescribe such rules and regulations as he may deem advisable concerning the administration of this chapter, the appointment and duties of notaries public and the duties of other officers thereunder. Such rules or regulations shall have the force and effect of law, but shall not require a public hearing thereon or publication in order to be valid and binding.

Sec. 5202-F. Fees; clerks of court. The clerk of each circuit court shall charge and receive the following fees:

1. For filing a copy of a commission, one dollar.
2. For each certificate of authentication, twenty-five cents."

Section 5. Chapter 149 of the Revised Laws of Hawaii 1935, is hereby amended by amending section 5208 thereof by deleting the title and first sentence of said section and by substituting in lieu of said title and sentence the following:

"Sec. 5208. Disposition of records penalty. The records of each notary public shall each year on June 30th, beginning with June 30, 1941, and upon the resignation, death, expiration of term of office, removal from or abandonment of office, or change of residence from the judicial circuit for which he is appointed, be deposited with the clerk of the circuit court of the judicial circuit for and in which such notary public was or is commissioned to act."

Section 6. Chapter 149 of the Revised Laws of Hawaii 1935, is hereby amended by amending section 5210 thereof by deleting the last sentence of said section and by substituting in lieu thereof the following:

"Any provision of this chapter to the contrary notwithstanding, a subordinate so designated shall not be required to pay any fee to the clerk of the circuit court, to pay the annual fee for a license to act as a notary public, or to furnish and file an official bond unless such bond is required by the head of the department, board or bureau in which such person is a subordinate, in which event, the expense of furnishing any such bond shall be borne by the Territory or the political subdivision, as the case may be. Such a notary public shall not demand or

receive any fee for his service and he shall act only in connection with government business of the Territory or any political subdivision thereof. Provided, however, that upon the prior approval of the attorney general, such a notary public, upon paying the fees prescribed by law and upon executing, depositing and filing, at his own expense, the required official bond, may demand or receive the fees prescribed by law for services rendered by him in matters not pertaining to such public business.

Any notary public violating any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than one year, or both."

Section 7. Chapter 145 of the Revised Laws of Hawaii 1935, is hereby amended by amending section 5151 thereof to read as follows:

"Sec. 5151. Disposition of records. Except as otherwise provided in respect to notaries public by section 5208, the books of record so kept shall every five years, beginning on July 1, 1893, and upon the resignation, death or removal from office of such judge or other officer, be deposited with the clerk of the circuit court of the judicial circuit for and in which the judge or other officer was or is authorized to act." [L. 1888, c. 18, s. 2; R. L. 1935, s. 5151; am. L. 1941, c. 322, s. 7.]

Section 8. All notaries public commissions heretofore issued and now in force, as well as the terms of office of all such notaries public, shall expire at midnight on June 30, 1941, provided, however, that notwithstanding the maximum number of notaries public fixed for each judicial circuit of the Territory by section 5200 of the Revised Laws of Hawaii 1935, as amended by this Act, upon the filing, before June 20, 1941, by any such notary public who is otherwise qualified of a written application with the attorney general, the attorney general shall appoint and commission or renew or extend the commission of such notary public for the judicial circuit for and in which he is now appointed and commissioned for the term of office specified in said section 5200, but subject nevertheless to all of the other provisions of chapter 149 of the Revised Laws of Hawaii 1935, as amended by this Act, provided, further, that should the number of notaries public who are so commissioned and appointed or whose commissions are renewed or extended in any judicial circuit of the Territory exceed the maximum number fixed by said section 5200 for such judicial circuit no

further or other notaries public shall be commissioned and appointed for such judicial circuit, except as provided in said section, until, by death, resignation, removal or otherwise, the number of such notaries public shall be reduced to less than the maximum number so fixed.

Section 9. This Act shall take effect as follows: Sections 5, 7 and 8 thereof shall take effect upon the approval of the Act and sections 1, 2, 3, 4 and 6 thereof shall take effect upon July 1, 1941; provided, however, that to avoid undue confusion and stoppage of business, rules and regulations may be prescribed and notaries public may be appointed and commissioned and may qualify under and subject to the provisions and conditions of this Act prior to said July 1, 1941; provided, further, that no notary public so appointed and commissioned shall enter upon the performance of the duties of his office under this Act until July 1, 1941.

(Approved May 21, 1941.) **S.B. 380, Act 322.**

Title XX. CRIMINAL LAW.

CHAPTER 152A. EXTRADITION LAW.

[C-168] An Act Relating to Interstate Extradition as Herein Defined and Provided; Prescribing and Making Uniform the Procedure in Respect Thereto; Specifying the Persons or Classes of Persons Who May Be Extradited to or From This Territory; Providing for the Demand and Requisition for and the Apprehension, Arrest, Commitment, Confinement, Bail, Detention, Discharge, Recommitment, Surrender, Delivery, Transportation, Remedies, Privileges, Immunities and Rights of and Waiver of Rights by Certain Persons Within This Territory or in Respect to Whom Extradition May Be or Has Been Requested or Made; Conferring Certain Powers and Imposing Certain Duties Upon Certain Officers, Judges, Magistrates, Boards, Agents and Other

Persons Herein Mentioned; Providing for the Temporary Confinement of Certain Persons Being Transported Through This Territory; and Providing Penalties.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 5326.01.] Section 1. **Definitions.** Where appearing in this Act, the term “governor” includes any person performing the functions of governor of this territory by authority of the laws of the United States. The term “executive authority” includes the governor, and any person performing the functions of governor in any state, and the term “state” includes any state, the District of Columbia, or a territory other than this territory, organized or unorganized, of the United States of America. The term “interstate” means between this territory and any state. The term “prosecuting officer” or “prosecuting attorney” includes the attorney general of this territory, any county attorney or public prosecutor of any county of this territory. The term “county” includes any county or city and county, and the term “peace officer” includes any officer authorized to serve process in criminal proceedings.

[Sec. 5326.02.] Section 2. **Fugitives from justice; duty of governor.** Subject to the provisions of this Act, the provisions of the Constitution of the United States controlling, and any and all Acts of Congress enacted in pursuance thereof, it is the duty of the governor of this territory to have arrested and delivered up to the executive authority of any state of the United States any person charged in that state with treason, felony or other crime, who has fled from justice and is found in this territory.

[Sec. 5326.03.] Section 3. **Form of demand.** No demand for the extradition of a person charged with crime in any state shall be recognized by the governor unless in writing alleging, except in cases arising under section 6, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with

having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

[Sec. 5326.04.] Section 4. **Governor may investigate case.** When a demand shall be made upon the governor of this territory by the executive authority of any state for the surrender of a person so charged with crime, the governor may call upon the attorney general or any other prosecuting officer in this territory to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

[Sec. 5326.05.] Section 5. **Extradition of persons imprisoned or awaiting trial in any state or who have left the demanding state under compulsion.** When it is desired to have returned to this territory a person charged in this territory with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in any state, the governor of this territory may agree with the executive authority of such state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such state, upon condition that such person be returned to such state at the expense of this territory or any county thereof as soon as the prosecution in this territory is terminated.

The governor of this territory may also surrender on demand of the executive authority of any state any person in this territory who is charged in the manner provided in section 3 of this Act with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

[Sec. 5326.06.] Section 6. **Extradition of persons not present in demanding state at time of commission of crime.** The governor of this territory may also surrender, on demand of the executive authority of any state, any person in this territory charged in such state in the manner provided in section 3 with committing an act in this territory, or in another state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this Act not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

[Sec. 5326.07.] Section 7. **Issue of governor's warrant of arrest; its recitals.** If the governor decides that the demand should be complied with, he shall sign a warrant of arrest, which

shall be sealed with the great seal of the territory, and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

[Sec. 5326.08.] Section 8. **Manner and place of execution.** Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within this territory and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this Act to the duly authorized agent of the demanding state.

[Sec. 5326.09.] Section 9. **Authority of arresting officer.** Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

[Sec. 5326.10.] Section 10. **Rights of accused person; application for writ of habeas corpus.** No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken before a judge of a court of record in the territory, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

[Sec. 5326.11.] Section 11. **Penalty for non-compliance with preceding section.** Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the governor's warrant, in wilful disobedience to the last section, shall be guilty of a misdemeanor and, on conviction, shall be fined not more than \$1,000.00 or be imprisoned not more than six months, or both.

[Sec. 5326.12.] Section 12. **Confinement in jail when necessary.** The officer or persons executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner

may have been delivered may, when necessary, confine the prisoner in the jail of any county through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping.

The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this territory with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent, however, being chargeable with the expense of keeping; provided, however, that such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this territory.

[Sec. 5326.13.] Section 13. **Arrest prior to requisition.** Whenever any person within this territory shall be charged on the oath of any credible person before any judge or magistrate of this territory with the commission of any crime in any state and, except in cases arising under section 6, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge or magistrate in this territory setting forth on the affidavit of any credible person in any state that a crime has been committed in such state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under section 6, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement or having broken the terms of his bail, probation or parole and is believed to be in this territory, the judge or magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this territory, and to bring him before the same or any other judge, magistrate or court who or which may be available in or convenient of access to the place where the

arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

[Sec. 5326.14.] Section 14. **Arrest without a warrant.** The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

[Sec. 5326.15.] Section 15. **Commitment to await requisition; bail.** If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under section 6, that he has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in the next section, or until he shall be legally discharged.

[Sec. 5326.16.] Section 16. **Bail; in what cases; conditions of bond.** Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this territory may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of this territory.

[Sec. 5326.17.] Section 17. **Extension of time of commitment; adjournment.** If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge him or may recommit him for a further period not to exceed sixty days, or a judge or magistrate may again take bail for his appearance and surrender, as provided in section 16, but within a period not to exceed sixty days after the date of such new bond.

[Sec. 5326.18.] Section 18. **Forfeiture of bail.** If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge, or magistrate by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within this territory. Recovery may be had on such bond in the name of the territory as in the case of other bonds given by the accused in criminal proceedings within this territory.

[Sec. 5326.19.] Section 19. **Persons under criminal prosecution in this territory at time of requisition.** If a criminal prosecution has been instituted against such person under the laws of this territory and is still pending the governor, in his discretion, either may surrender him on demand of the executive authority of any state or hold him until he has been tried and discharged or convicted and punished in this territory.

[Sec. 5326.20.] Section 20. **Guilt or innocence of accused, when inquired into.** The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

[Sec. 5326.21.] Section 21. **Governor may recall warrant or issue alias.** The governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

[Sec. 5326.22.] Section 22. **Fugitives from this territory; duty of governors.** Whenever the governor of this territory shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this territory, from the executive authority of any state, or from the chief justice or an associate justice of the supreme court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the great seal of this territory, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this territory in which the offense was committed.

[Sec. 5326.23.] Section 23. **Application for issuance of requisition; by whom made; contents.**

I. When the return to this territory of a person charged with crime in this territory is required, the prosecuting attorney shall present to the governor his written application

for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein at the time the application is made and certifying that, in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this territory for trial and that the proceeding is not instituted to enforce a private claim.

II. When the return to this territory is required of a person who has been convicted of a crime in this territory and has escaped from confinement or broken the terms of his bail, probation or parole, the prosecuting attorney of the county in which the offense was committed, the board of paroles and pardons, the director of institutions, or the warden of the institution or sheriff or chief of police of the county, from which escape was made, shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, the state in which he is believed to be, including the location of the person therein at the time application is made.

III. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, board of paroles and pardons, director of institutions, warden, sheriff or chief of police may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the secretary of this territory to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

[Sec. 5326.24.] Section 24. **Immunity from service of process in certain civil actions.** A person brought into this territory by, or after waiver of, extradition based on a criminal charge

shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which he is being or has been returned, until he has been convicted in the criminal proceeding, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

[Sec. 5326.25.] **Section 25. Written waiver of extradition proceedings.** Any person arrested in this territory charged with having committed any crime in any state or alleged to have escaped from confinement, or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in sections 7 and 8 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this territory a writing which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 10.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this territory and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this territory.

[Sec. 5326.26.] **Section 26. Non-waiver by this territory.** Nothing in this Act contained shall be deemed to constitute a waiver by this territory of its right, power or privilege to try such demanded person for crime committed within this territory, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this territory, nor shall any proceedings had under this Act which result in, or fail to result in, extradition be deemed a waiver by this territory of any of its rights, privileges or jurisdiction in any way whatsoever.

[Sec. 5326.27.] **Section 27. No right of asylum.** No im-

munity from other criminal prosecutions while in this territory.

After a person has been brought back to this territory by or after waiver of extradition proceedings, he may be tried in this territory for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

[Sec. 5326.28.] Section 28. **Interpretation.** The provisions of this Act shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states and territories which enact it.

[Sec. 5326.29.] Section 29. **Constitutionality.** If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Sec. 5326.30.] Section 30. **Repeal.** All Acts and parts of Acts inconsistent with the provisions of this Act and not expressly repealed herein are hereby repealed.

[Sec. 5326.31.] Section 31. **Short title.** This Act may be cited as the Uniform Criminal Extradition Act.

Section 32. **Time of taking effect.** This Act shall take effect upon its approval.

(Approved April 24, 1941.) H.B. 285, Act 99.

CHAPTER 155. RIGHTS OF ACCUSED.

[C-169] An Act Amending Section 5354 of the Revised Laws of Hawaii 1935, Relating to Assignment of Counsel for Defendants; Fees; Expense of Transcript, Etc., by Allowing an Additional Fee for Retrials.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 5354** of the Revised Laws of Hawaii 1935, is hereby amended by substituting for the second sentence thereof the following:

“Additional similar fees may be allowed in the discretion of the court where as the result of a mistrial a trial de novo is

necessitated, but the foregoing fees shall be in full remuneration for all services in the circuit and supreme courts performed for the accused person in regard to the offense charged.”

Section 2. This Act shall take effect upon its approval.

(Approved April 22, 1941.) **H.B. 321, Act 72.**

Title XXI. CRIMINAL PROCEDURE.

CHAPTER 157. ARRESTS, SEARCH WARRANTS.

[C-170] An Act to Amend Section 5408 of the Revised Laws of Hawaii 1935, Relating to Examination After Arrest, so as to Further Safeguard the Rights of Arrested Persons.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5408 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“**Sec. 5408. Examination after arrest; rights of arrested person.** It shall be unlawful in any case of arrest for examination (1) to deny to the person so arrested the right of seeing, at reasonable intervals and for a reasonable time at the place of his detention, counsel or a member of such arrested person’s family; or (2) to unreasonably refuse or fail to make a reasonable effort, where such arrested person so requests and prepays the cost of such message, to send a telephone, cable, or wireless message through a police officer or another than the arrested person, to such counsel or member of such arrested person’s family; or (3) to deny to counsel (whether retained by such arrested person or a member of his family) or to a member of such arrested person’s family the right to see or otherwise communicate with such arrested person at the place of his detention (a) at any time for a reasonable period for the first time after such arrest, and (b) thereafter at reasonable intervals and for a reasonable time; or (4) in case the person arrested has requested that he see an attorney or member of

his family, to examine such person before he has had a fair opportunity to see and consult with such attorney or member of his family; or (5) to fail either to release or to charge such arrested person with a crime within forty-eight hours of his arrest in all cases in which such person is arrested on suspicion of having committed a crime." [P. C. 1869, c. 49, s. 9; am. L. 1915, c. 25, s. 1; am. L. 1927, c. 261, s. 1; R. L. 1935, s. 5408; am. L. 1941, c. 168, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 7, 1941.) **H.B. 216, Act 168.**

CHAPTER 159. CRIMINAL PROCEDURE: DISTRICT COURTS.

[C-171] An Act to Amend Section 5470 of the Revised Laws of Hawaii 1935, Relating to Criminal Procedure in District Courts.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5470 of the Revised Laws of Hawaii 1935, is hereby amended by amending the first paragraph to read as follows:

"Sec. 5470. Complaint; form of warrant. Upon complaint made to any prosecuting officer of the commission of any offense, he shall examine the complainant, shall reduce the substance of the complaint to writing and cause the same to be subscribed by the complainant under oath, which he is hereby authorized to administer. Upon presentation of the written complaint to the magistrate within whose district the offense is alleged to have been committed such magistrate shall issue his warrant, reciting the complaint and requiring the high sheriff, or other officer to whom it is directed (except as provided in the next succeeding section), forthwith to arrest the accused and bring him before the magistrate to be dealt with according to law; and in the same warrant may require the officer to summon such witnesses as shall be named therein to appear and give evidence at the trial. The warrant may be in the following form:".

Section 2. This Act shall take effect upon its approval.

(Approved April 21, 1941.) **S.B. 97, Act 64.**

SUSPENSION OF SENTENCE.

[C-172] An Act Amending Section 5479, Revised Laws of Hawaii 1935, as Amended by Act 120, Session Laws of Hawaii 1937, Relating to the Suspension of Sentences by District Magistrates.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5479, Revised Laws of Hawaii 1935, as amended by Act 120, Session Laws of Hawaii 1937, is hereby further amended to read as follows:

“Sec. 5479. Suspension of sentences by district magistrates. Any district magistrate may suspend the imposition or the execution of the sentence of any person convicted of a misdemeanor before the court over which the magistrate is presiding, for any period not to exceed thirteen months from the date of conviction of such person and upon such terms and conditions as the magistrate may deem best. The magistrate may direct, as one of the terms and conditions of such suspension of sentence, periodical or intermittent confinement of such person in jail.” [L. 1898, c. 10, s. 1; am. L. 1931, c. 41, s. 1; R. L. 1935, s. 5479; am. L. 1937, c. 120, s. 1; am. L. 1941, c. 28, s. 1.]

Section 2. This Act shall take effect from and after the date of its approval.

(Approved April 15, 1941.) **S.B. 19, Act 28.**

UNCLAIMED EVIDENCE.

[C-173] An Act to Provide for the Disposition of Unclaimed Articles Offered or Received in Evidence in District Courts in Criminal Cases.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 5482.] Section 1. [Unclaimed articles used as evidence, disposition of.] Whenever an article, not subject to forfeiture or other disposition under any other law, which has been offered or admitted in evidence in any trial of a criminal case heard by a district magistrate, remains in the possession of such magistrate for a continuous period of one year after the final disposition of the matter in which such article was re-

ceived in evidence, it shall be lawful for such district magistrate to deliver such article to the treasurer of the county in which such magistrate's district lies, together with such data as shall be available in the magistrate's files relating to the names of the defendants or other persons who might be the owners of such article, or of their attorneys, and it shall thereupon be the duty of such treasurer to give notice by postcard or other ordinary mail to each such person or attorney whose address or last known address is available, stating briefly that such article (briefly describing the same in general terms) was offered or admitted in evidence, the approximate date of such offer or admission, the name and number of the case and the name of the court, and that, unless such article is called for and proof of ownership made within three months from the date of mailing such notice, the same shall be disposed of for the use of the county. In addition, the treasurer of the county shall publish a notice once in a newspaper of general circulation published in the county, which notice may relate to any number of different items and may be in substantially the following form:

**Notice of Proposed Forfeiture of Unclaimed Articles Offered
 or Admitted in Evidence in Criminal Cases in
 District Courts.**

All unclaimed articles which were offered or admitted in evidence in the hereinafter mentioned criminal cases in district courts in this county have been delivered to the undersigned for forfeiture according to law unless claimed by the owners thereof. Notice is hereby given that any such articles not claimed within three months from the date of publication of this notice will be forfeited to and disposed of for the use of said county. The criminal cases in which such articles were so offered or admitted in evidence are as follows:

Title of Case	District Court of	No. of Case
Territory v. Richard Roe and John Brown, Etc.	Makawao	55

Dated.....
 Treasurer, County of Maui.

Any article not claimed within the time required by this Act by a person giving evidence satisfactory to the treasurer of ownership or right to possession of such article, shall automatically be forfeited to such county, and shall be sold by him at public auction, after publication of a brief notice

of sale of unclaimed articles, (without describing such articles or setting forth the names of the cases or courts mentioned in the notice of proposed forfeiture) once, more than two days prior to the sale, in a newspaper of general circulation published in the county, and the proceeds of such sale shall be paid into the general fund of the county as a county realization. Such notice of sale may be included in the notice first hereinabove mentioned, provided the date therein noticed for sale shall be more than thirty days after the date of such publication. Any such article upon which no bid is received, may by the county treasurer be either destroyed or given to any department of the county or to any charitable institution desiring the same.

Section 2. This Act shall take effect upon its approval.

(Approved May 15, 1941.) **S.B. 246, Act 257.**

CHAPTER 160. CRIMINAL PROCEDURE: CIRCUIT COURTS.

JOINDER OF DEFENDANTS IN CERTAIN CASES.

[C-174] An Act to Regulate the Joinder of Charges in Criminal Causes.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 5497A.] Section 1. [Joinder of charges against defendant.] When there are several charges against any person for the same act or transaction, or for two or more acts or transactions connected together, or for two or more acts or transactions of the same class of crimes or offenses, which may be properly joined, instead of having several indictments, informations or complaints, the whole may be joined in separate counts in one indictment, information or complaint; and if two or more indictments, informations or complaints are found or entered in such cases, the court or district magistrate may order them to be consolidated.

Section 2. This Act shall take effect upon its approval.

(Approved April 21, 1941.) **S.B. 249, Act 59.**

INDETERMINATE SENTENCES.

[C-175] An Act to Amend Section 5536 of the Revised Laws of Hawaii 1935, as Amended, Relating to Life Sentences.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 5536** of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending the first proviso clause in the second paragraph thereof to read as follows:

“provided that when the maximum sentence is for life a minimum term shall be fixed at not less than fifteen nor more than thirty years;”.

Section 2. This Act shall apply to all persons convicted before the effective date thereof of any crime punishable by life imprisonment and whose minimum sentence shall not have been determined before said date as by law provided.

Section 3. This Act shall take effect upon its approval.

(Approved May 14, 1941.) **S.B. 426, Act 237.**

SENTENCE.

[C-176] An Act to Amend Chapter 160 of the Revised Laws of Hawaii 1935, as Amended, by Adding a New Section Thereto, to be Numbered Section 5541-A, to Provide for the Imprisonment of a Person Convicted of a Felony, and by Amending Section 5542, to Provide for the Delivery of Persons Convicted of a Felony to Oahu Prison.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 160 of the Revised Laws of Hawaii 1935, is hereby amended by adding thereto a new section to be numbered section 5541-A and to read as follows:

“**Sec. 5541-A. Sentence, Felons; imprisonment where.** In all cases in which a person is convicted of a felony and is sentenced to imprisonment, at hard labor or otherwise, he shall be sentenced to imprisonment in Oahu Prison. The court or judge before which or whom the conviction is had shall not, in any such sentence, designate the part of Oahu Prison in which any such person shall be imprisoned or confined. Oahu Prison as used herein shall mean Oahu Prison as defined in Section 6400-A and any such sentence shall be served and executed as in said section 6400-A provided. Nothing herein shall be deemed to repeal, amend, modify or otherwise affect the pro-

visions of sections 5536, 5537, 5540, 5543, 5543-A, 5544, 5545, 5545-A, 5545-B, 5545-C, 5545-D, 5545-E, 5545-F and 5546.”

Section 2. **Section 5542** of the Revised Laws of Hawaii 1935, is hereby amended by deleting the “period” at the end thereof and inserting in lieu thereof a “semi-colon” and the following:

“provided that any person convicted of a felony and sentenced to imprisonment in Oahu Prison shall be delivered, together with the certificate of his sentence, to the warden of Oahu Prison at Honolulu, City and County of Honolulu.”

Section 3. This Act shall take effect from and after the date of its approval.

(Approved April 8, 1941.) **H.B. 151, Act 15.**

CHAPTER 162A. CORONERS, INQUESTS.

[C-177] An Act to Amend Act 90, Session Laws of Hawaii 1935, by Adding Thereto Three New Sections, Relating to Investigations Concerning Deaths, and the Powers and Duties of Coroners and Police Officers in Connection Therewith.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 90 of the Session Laws of Hawaii 1935, is hereby amended by adding thereto the following sections:

[Sec. 5583J.] “Section 10-a. **[Removal of corpse.]** No corpse or remains of any dead human body appearing to have come to death by poisoning, violence, or in any suspicious manner, shall be moved or disturbed from its place of death or disposed of by any person including the coroner or his deputies, the chief of police, or any police officer without first receiving the authority of both the coroner or his deputy and the police officer in charge.

The removal of such body or bodies shall be the duty of the coroner.

[Sec. 5583K.] Section 10-b. **[Disposition of personal effects.]** The clothing and personal property found on any human body appearing to have come to death by poisoning, violence, or in any suspicious manner may be recovered and held as evidence by any police officer, pending the investigation of the facts and the final disposition of any trial which may arise out of such death.

[Sec. 5583L.] Section 10-c. [Autopsies to be performed.]
The coroner shall have a complete autopsy performed of the remains of any human body appearing to have come to death by poisoning, violence, or in any suspicious manner. Such autopsies shall be performed by the city and county physician or his assistant in the city and county of Honolulu and in other counties by any government physician designated by the coroner. Such physician may request the services of a recognized pathologist to assist in the performance of any autopsy."

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1941.) S.B. 289, Act 288.

Title XXII. CRIMINAL OFFENSES.

CHAPTER 187. FORGERY AND PASSING FORGED INSTRUMENT.

[C-178] An Act to Amend Section 5898 of the Revised Laws of Hawaii 1935, Relating to Forgery.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5898 of the Revised Laws of Hawaii 1935, is hereby amended to read:

"Sec. 5898. **Punishment.** Whoever is guilty of the forgery of any deed of conveyance, lease, promissory note, bill of exchange, due bill, check, order or request to pay money, or other writing whatever, to the amount, or involving or affecting the amount, or value of one hundred dollars or more, shall be punished by imprisonment at hard labor for not more than ten years, or by a fine not exceeding one thousand dollars, or by both.

Whoever is guilty of any other forgery shall be punished by imprisonment at hard labor for not more than five years, or by a fine not exceeding one thousand dollars, or by both." [P. C. 1869, c. 30, ss. 9, 10; R. L. 1935, s. 5898; am. L. 1941, c. 70, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 22, 1941.) S.B. 265, Act 70.

CHAPTER 188. FRAUDULENT COMMERCIAL PAPER.

[C-179] An Act to Amend Chapter 188 of the Revised Laws of Hawaii 1935 by Amending Section 5920, Section 5921 and Section 5922 Thereof, Relating to Fraudulent Commercial Paper.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5920 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 5920. Fraudulently drawing on bank; penalty. Any person who, for himself or as the agent or representative of another or as an officer of a corporation or association, wilfully, with intent to defraud, makes or draws or utters or delivers within the Territory any check or draft upon any bank, national banking association or other depository for the payment of money, knowing at the time of such making, drawing, uttering or delivering that the maker or drawer has not sufficient funds in, or credit with, said bank, national banking association or depository for the payment of such check or draft in full upon its presentation, although no express representation is made with reference thereto, shall be deemed guilty of a misdemeanor and punishable by imprisonment for not more than one year, or by fine not exceeding \$1,000, or both." [L. 1913, c. 145, s. 1; R. L. 1935, s. 5920; am. L. 1941, c. 241, s. 1.]

Section 2. Section 5921 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 5921. Credit defined. The word 'credit' as used in Sec. 5920 shall be construed to be an arrangement or understanding with the bank, national banking association or other depository for the payment of the check or draft." [L. 1913, c. 145, s. 2; R. L. 1935, s. 5921; am. L. 1941, c. 241, s. 2.]

Section 3. Section 5922 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 5922. Insufficient funds or credit; prima facie evidence of intent to defraud. In any prosecution under this chapter as against the maker or drawer of any such check or draft, the making, drawing, uttering or delivering of a check or draft, payment of which is refused by the drawee for the reason that the maker or drawer has not sufficient funds in or credit with said drawee to pay the same in full, shall be

prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or credit with, such bank, national banking association or other depository, provided such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with all costs and protest fees, within five days after receiving notice, in person or writing, that such check or draft has not been paid by the drawee. Written notice sent to the maker's or drawer's address last known to the payee, by registered mail, postage prepaid, return receipt requested, shall be deemed written notice within the meaning of this section." [L. 1919, c. 154, s. 1; R. L. 1935, s. 5922; am. L. 1941, c. 241, s. 3.]

Section 4. This Act shall take effect upon its approval.

(Approved May 14, 1941.) **S.B. 395, Act 241.**

CHAPTER 191. GROSS CHEAT.

[C-180] An Act Amending Section 5965 of the Revised Laws of Hawaii 1935, Prescribing the Punishment for Gross Cheat.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 5965 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 5965. Punishment. Whoever is convicted of a gross cheat under sections 5960 or 5961, where the money, or the value of the goods or other thing of value, obtained exceeds one hundred dollars, shall be punished by imprisonment of not more than ten years, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment.

Whoever is convicted of any other gross cheat shall be punished by imprisonment of not more than one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment." [L. 1896, c. 32, s. 1; am. L. 1901, c. 14, s. 1; R. L. 1935, s. 5965; am. L. 1941, c. 163, s. 1.]

Section 2. This Act shall take effect upon its approval, but shall not apply to any offense heretofore committed. Any such prior offense shall be punishable in the same manner and to the same extent as if this Act had not been enacted.

(Approved May 6, 1941.) **H.B. 450, Act 163.**

HAWAIIAN OR KONA COFFEE.

[C-181] An Act Making It a Misdemeanor to Label, Advertise or Offer for Sale Coffee as Hawaiian or Kona Coffee Unless One Hundred Percent of Such Coffee Was Raised in the Territory.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 5967A.] Section 1. [Labeling, advertising, sale of; penalty.] It is hereby declared a misdemeanor for any person hereafter in the territory to label, advertise or offer for sale any coffee as Hawaiian coffee or Kona coffee unless one hundred percent of the coffee so labeled or advertised was raised in the territory.

Any person violating the provisions of this Act shall be punishable by fine of not more than \$1,000.00, or by imprisonment for not more than one year, or by both such fine and imprisonment.

[Sec. 5967B.] Section 2. [Saving clause.] If any portion of this Act, or its application to any person or circumstance, shall be held unconstitutional or invalid, the remainder of this Act, or the application of such portion to other persons and circumstances, shall not be affected.

Section 3. This Act shall take effect on July 1, 1941.

(Approved April 11, 1941.) **H.B. 58, Act 19.**

ADVERTISEMENTS.

[C-182] An Act to Amend Chapter 191 of the Revised Laws of Hawaii 1935, by Amending Section 5972 and by Adding a New Section Thereto to be Numbered 5972-A, Relating to False Advertising and Providing for Actions to Enjoin False Advertising and to Recover Damages Therefrom.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 5972** of the Revised Laws of Hawaii 1935 is hereby amended by substituting a semi-colon for the period following the word "thereof" in line 17 of said section and by adding thereafter the following:

"provided, further, that any advertisement shall be deemed untrue, deceptive, or misleading within the meaning of this section which uses, with or without the use of the word

'value' or the word 'worth' or other synonymous terms, any word or words, figure or figures, which falsely or fraudulently convey or which by reasonable intentment falsely or fraudulently convey to a reader the meaning that the merchandise, securities, service, or other things so advertised are of a greater value or worth more than or were previously sold or offered for sale at a price higher than the price quoted in said advertisement. For the purpose of this section the words 'worth' or 'value' shall be taken to be the prevailing market price, wholesale if the offer is at wholesale, retail if the offer is at retail, at the time of publication of such advertisement in the locality wherein said advertisement is published."

Section 2. Chapter 191 of the Revised Laws of Hawaii 1935, is hereby amended by adding thereto a new section to be numbered section 5972-A, to read as follows:

"Sec. 5972-A. Suit to enjoin violation; action for damages. Any person, firm, private corporation, or municipal or other public corporation or trade association may maintain a suit to enjoin a continuance of any act in violation of section 5972, and if injured thereby for recovery of damages. If in any such suit the court shall find that the defendant is violating or has violated any of the provisions of section 5972, it shall enjoin the defendant from a continuance thereof. It shall not be necessary that actual damages to the plaintiff or petitioner be alleged or proved.

Any defendant in any suit or action brought under the provisions of this section may be compelled to testify by deposition under the provisions of sections 3865 to 3888, both sections inclusive, of the Revised Laws of Hawaii 1935, or in person before the court in which such action is brought, and may be examined by the plaintiff or petitioner as if on cross examination, and the plaintiff or petitioner shall not be bound by his testimony; provided, however, that no information so obtained may be used against the defendant as a basis for a misdemeanor or prosecution under the provisions of section 5972. No proceeding shall be instituted for an injunction unless and until plaintiff or petitioner shall have notified the defendant of his intention to file such a proceeding unless the defendant shall cease and desist from continuing to act in violation of section 5972, such notice to be given at least 48 hours previous to the filing of any action. No injunction shall issue in the event that defendant shall have ceased violating the provisions of section 5972 upon the receipt of said notice, but the giving of such notice or the bringing of an action under the provisions of

this section shall not prevent the institution or continuance to completion of a prosecution for misdemeanor under the provisions of section 5972.”

Section 3. This Act shall take effect upon its approval.

(Approved May 13, 1941.) **H.B. 498, Act 220.**

CHAPTER 193. HOMICIDE: MURDER, MANSLAUGHTER.

NEGLIGENT HOMICIDE.

[C-183] An Act Pertaining to and Defining the Offense of Negligent Homicide in the Operation of a Vehicle and Providing a Penalty Therefor.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 6001.] Section 1. [Negligent homicide; penalty.] Every person who by the operation of any vehicle in a careless, reckless or negligent manner, but not wilfully or wantonly, shall cause the death of another, shall be guilty of the crime of negligent homicide and shall be punished by imprisonment at hard labor for not more than five years.

[Sec. 6002.] Section 2. [May find guilty of on charge of greater offense.] Under an indictment charging a defendant with murder or manslaughter in the operation of any vehicle the jury, or the court in a jury waived case, may find the defendant guilty of negligent homicide if the facts so warrant.

Section 3. This Act shall take effect upon its approval.

(Approved April 22, 1941.) **S.B. 267, Act 71.**

CHAPTER 207A. SABOTAGE.

[C-184] An Act Providing for the Protection of Property by Making Criminal Certain Unlawful Entries on, Injuries to and Interferences With Property, Authorizing the Closing of Streets, and to Provide Penalties.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 6216.01.] Section 1. **Definitions.** As used in this Act: “Highway” includes any private or public street, way or other place used for travel to or from property.

“Highway commissioners” means any individual, board or other body having authority under then existing law to discontinue the use of the highway which it is desired to restrict or close to public use and travel.

“Police officers” shall mean the chiefs of police or police officers of the county of Maui or the city and county of Honolulu, the sheriff or deputy sheriffs or police officers of the counties of Kauai, Hawaii or Kalawao, or the high sheriff or deputy high sheriffs of the Territory.

“Public utility” includes any pipe line, gas, electric, water, oil, sewer, telephone, telegraph, cable, radio, railway, railroad, airplane, ship, transportation, communication or other system, or wharves, docks, ports, harbors, harbor improvements or terminals used in connection therewith, by whomsoever owned or operated for public use.

[Sec. 6216.02.] Section 2. **Intentional injury to or interference with property; punishment.** Whoever wilfully destroys, impairs, injures, interferes or tampers with real or personal property intending or having reasonable grounds to believe that such act will hinder, delay or interfere with the preparation of the United States or of any of the states or territories for defense or for war, or with the prosecution of war by the United States, shall, upon conviction thereof, be punished by imprisonment at hard labor for not more than twenty years, or by a fine of not more than ten thousand dollars, or both.

[Sec. 6216.03.] Section 3. **Intentionally defective workmanship; punishment.** Whoever wilfully makes or causes to be made or omits to note on inspection any defect in any article or thing intending or having reasonable grounds to believe that such article or thing is to be used in connection with the preparation of the United States or any of the states or territories for defense or for war, or for the prosecution of war by the United States, or that such article or thing is one of a number of similar articles or things, some of which are intended so to be used, shall, upon conviction thereof, be punished by imprisonment at hard labor for not more than twenty years, or a fine of not more than ten thousand dollars, or both.

[Sec. 6216.04.] Section 4. **Attempts; punishment.** Whoever attempts to commit any of the crimes defined by this Act shall be liable to one-half the punishment prescribed for the completed crime. In addition to the acts which constitute an attempt to commit a crime under the law of this Territory, the solicitation or incitement of another to commit any of the crimes defined by this Act not followed by the commission of the crime, the

collection or assemblage of any materials with the intent that the same are to be used then or at a later time in the commission of such crime, or the entry, with or without permission, of a building, enclosure or other premises of another with the intent to commit any such crime therein or thereon shall constitute an attempt to commit such crime.

[Sec. 6216.05.] Section 5. **Conspirators; punishment.** If two or more persons conspire to commit any crime defined by this Act, each of such persons is guilty of conspiracy and subject to the same punishment as if he had committed the crime which he conspired to commit, whether or not any act be done in furtherance of the conspiracy. It shall not constitute any defense or ground of suspension of judgment, sentence or punishment on behalf of any person prosecuted under this section, that any of his fellow conspirators has been acquitted, has not been arrested or convicted, is not amenable to justice or has been pardoned or otherwise discharged before or after conviction.

[Sec. 6216.06.] Section 6. **Witnesses' privileges.** No person shall be excused from attending and testifying, or producing any books, papers, or other documents before any court, magistrate, referee or grand jury upon any investigation, proceeding or trial, for or relating to or concerned with a violation of any section of this Act or attempt to commit such violation, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him by the Territory may tend to convict him of a crime or to subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him, upon any criminal investigation, proceeding or trial, except upon a prosecution for perjury or contempt of court based upon the giving or producing of such testimony.

[Sec. 6216.07.] Section 7. **Unlawful entry on property; punishment.** Any person, individual, partnership, association, corporation, municipal corporation or territory or any political subdivision thereof engaged in, or preparing to engage in the manufacture, transportation or storage of any product to be used in the preparation of the United States or of any of the states or territories for defense or for war in the prosecution of war by the United States, or the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any of said natural or artificial persons operating any public

utility, whose property, except where it fronts on water or where there are entrances for railway cars, vehicles, persons or things, is surrounded by a fence or wall, or a fence or wall and buildings, may post around his or its property at each gate, entrance, dock, wharf or railway entrance and every one hundred feet of water front a sign reading "No Entry Without Permission". Whoever without permission of such owner shall wilfully enter upon premises so posted shall, upon conviction thereof, be punished by imprisonment for not more than six months, or a fine of not more than five hundred dollars, or both.

[Sec. 6216.08.] Section 8. **Questioning and detaining suspected persons.** Any police officer, or any person employed as watchman, guard, or in a supervisory capacity on premises posted as provided in section 7 may stop any person found on any premises to which entry without permission is forbidden by section 7 and may detain him for the purpose of demanding, and may demand, of him his name, address and business in such place. If said police officer, or employee has reason to believe from the answers of the person so interrogated that such person has no right to be in such place, said police officer shall forthwith release such person or he may arrest such person without a warrant on the charge of violating the provisions of section 7; and said employee shall forthwith release such person or turn him over to a police officer, who may arrest him without a warrant on the charge of violating the provisions of said section 7.

[Sec. 6216.09.] Section 9. **Closing and restricting use of highway.** Any person, individual, partnership, association, corporation, municipal corporation or territory or any political subdivision thereof engaged in or preparing to engage in the manufacture, transportation or storage of any product to be used in the preparation of the United States or any of the states or territories for defense or for war or in the prosecution of war by the United States, or in the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any of said natural or artificial persons operating any public utility, who has property so used which he or it believes will be endangered if public use and travel is not restricted or prohibited on one or more highways or parts thereof upon which such property abuts, may petition the highway commissioners of this Territory or any county thereof to close one or more of said highways or parts thereof to public use and travel or to restrict by order the use and travel upon one or more of said highways or parts thereof.

Upon receipt of such petition, the highway commissioners shall set a day for hearing and give notice thereof by publication in a newspaper having general circulation in the county in which such property is located, such notice to be at least seven days prior to the date set for hearing. If after hearing the highway commissioners determine that the public safety and the safety of the property of the petitioner so require, they shall by suitable order close to public use and travel or reasonably restrict the use of and travel upon one or more of said highways or parts thereof: Provided, the highway commissioners may issue written permits to travel over the highways so closed or restricted to responsible and reputable persons for such term, under such conditions and in such form as said commissioners may prescribe. Appropriate notices in letters at least six inches high shall be posted conspicuously at each end of any highway so closed or restricted by such order. The highway commissioners may at any time revoke or modify any order so made.

[Sec. 6216.10.] Section 10. **Penalty for going upon closed or restricted highway.** Whoever violates any order made under section 9 shall, upon conviction thereof, be punished by imprisonment for not more than six months, or a fine of not more than five hundred dollars, or both.

[Sec. 6216.11.] Section 11. **Rights of labor.** Nothing in this Act shall be construed to impair, curtail or destroy the rights of employees and their representatives to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection.

[Sec. 6216.12.] Section 12. **Severability.** If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Sec. 6216.13.] Section 13. **Short title.** This Act may be cited as the Sabotage Prevention Act.

[Sec. 6216.14.] Section 14. **Relation to other statutes.** All Acts or parts of Acts inconsistent with this Act are hereby suspended in their application to any proceedings under this Act. If conduct prohibited by this Act is also made unlawful by another or other laws, the offender may be convicted for the violation of this Act or of such other law or laws.

[Sec. 6216.15.] Section 15. **When this Act is in force.** This Act shall take effect upon its approval and it and all orders made under it shall be in force until May 15, 1945, and thereafter whenever the United States is at war; provided, any violation of this Act, committed while the Act is in force, may be prosecuted and punished thereafter, whether or not this Act is in force at the time of such prosecution and punishment.

(Approved April 23, 1941.) **S.B. 176, Act 82.**

CHAPTER 209. SEX OFFENSES.

ADULTERY, ETC., WITH MINOR, FELONY.

[C-185] An Act to Amend Section 6249 of the Revised Laws of Hawaii 1935 Defining Carnal Abuse of a Female Under Twelve Years and Providing a Penalty Therefor.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6249 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

“**Sec. 6249. Carnal abuse of a female under twelve; punishment.** Whoever carnally abuses and knows any female child under the age of twelve years shall be punished by imprisonment at hard labor for life or any number of years.” [P. C. 1869, c. 11, s. 2; am. L. 1909, c. 37, s. 1; am. L. 1931, c. 5, s. 1; R. L. 1935, s. 6249; am. L. 1941, c. 183, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1941.) **S.B. 489, Act 183.**

PROCURING, PROSTITUTION, ETC.

[C-186] An Act to Amend Section 6253 of the Revised Laws of Hawaii 1935, Relating to Lascivious Conduct, etc.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6253 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“**Sec. 6253. Lascivious conduct, etc.** Any man or woman

who is guilty of lewd conversation, lascivious conduct, or libidinous solicitations, shall be punished by imprisonment of not more than one year or by a fine of not exceeding one thousand dollars (\$1,000.00), or by both such imprisonment and fine." [P. C. 1869, c. 13, s. 8; R. L. 1935, s. 6253; am. L. 1941, c. 88, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 23, 1941.) **S.B. 310, Act 88.**

CHAPTER 212. TRAFFIC VIOLATIONS.

HEEDLESS RIDING AND DRIVING.

[C-187] An Act to Amend Section 6280 and to Repeal Sections 6281, 6282 and 6287 of the Revised Laws of Hawaii 1935, Relating to Careless or Heedless Operation of Vehicles or Riding of Animals and the Penalty Therefor.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6280 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 6280. Careless or heedless operation of vehicles or riding of animals; penalty. Whoever operates any vehicle or rides any animal carelessly or heedlessly of the rights or safety of others, or in a manner so as to endanger or be likely to endanger any person or property, shall be punished by a fine not exceeding one thousand dollars or by imprisonment for not more than one year, or by both." [P. C. 1869, c. 26, s. 1; am. L. 1907, c. 68, s. 1; R. L. 1935, s. 6280; am. L. 1941, c. 116, s. 1.]

Section 2. **Sections 6281, 6282 and 6287** of the Revised Laws of Hawaii 1935, are hereby repealed.

Section 3. This Act shall take effect upon its approval.

(Approved April 28, 1941.) **S.B. 269, Act 116.**

[C-188] An Act to Amend Section 6283 of the Revised Laws of Hawaii 1935, Relating to Assistance to Persons Injured by Vehicles.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6283 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 6283. Assistance to persons injured by vehicles. Whenever any vehicle strikes any person, or collides with any second vehicle containing a person, the driver of and all persons within the vehicle who have or assume authority over the driver shall immediately cause the vehicle to stop and shall forthwith render to the person struck, or to the occupant of the second vehicle, all needed assistance, including the carrying of the person or occupant to a physician or surgeon for medical or surgical treatment, if that treatment seems to be required, or if the carrying is requested by the person struck or the occupant of the second vehicle; and the driver, or persons having or assuming authority over him, shall forthwith give to the person struck or the occupant of the second vehicle, the number, if any, of such vehicle with the name and address of the driver, of the owner, and of each person in the vehicle at the time of the striking or collision." [L. 1913, c. 125, s. 1; R. L. 1935, s. 6283; am. L. 1941, c. 46, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 18, 1941.) **H.B. 196, Act 46.**

[**Sec. 6287. Additional punishment.** Repealed by Act 116, supra, page 250.]

LAW OF THE ROAD.

[C-189] An Act to Repeal Sections 6291 to 6295 Inclusive, of the Revised Laws of Hawaii 1935, Relating to Law of the Road.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Sections 6291 to 6295 inclusive**, of the Revised Laws of Hawaii 1935, relating to Law of the Road, are hereby repealed.

Section 2. This Act shall take effect June 30, 1941.

(Approved April 16, 1941.) **H.B. 116, Act 34.**

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WEIGHT, LOAD, SIZE, WIDTH, HEIGHT, ETC.

[C-190] An Act to Amend Chapter 212 of the Revised Laws of Hawaii 1935, as Amended, Relating to Traffic Violations, by Adding Thereto Five New Sections to be Numbered 6299, 6299A, 6299B, 6299C, and 6299D, Respectively, Establishing Uniform Restrictions as to Weight, Load, Size, Length, Width, Height and Appliances of Motor and Other Power Vehicles Using the Roads, Streets and Highways in the Territory; to Provide Penalties for the Violations of the Terms Thereof; and to Repeal and Declare Null and Void All Laws and Ordinances Inconsistent Therewith.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 212 of the Revised Laws of Hawaii 1935, is hereby amended by adding thereto five new sections to be numbered 6299, 6299A, 6299B, 6299C and 6299D, respectively, and to read as follows:

“Sec. 6299. Flanges, Ribs, Clamps, etc. There shall not be operated or moved upon any public road, street or highway within the Territory of Hawaii, any vehicle, motor vehicle or other power vehicle the face of the wheels of which are fitted or equipped with flanges, ribs, clamps, cleats, lugs, chains, spikes or other projections, other than rubber blocks, destructive to the road surfaces. This provision applies to all rings or flanges upon guiding or steering wheels of such vehicles, but it shall not be so construed as to prevent the use of ordinary detachable tire or skid chains.

The provisions of this section shall not apply to traction engines, tractors or other vehicles of the tracklaying type when the portions of the moveable tracks in contact with roadway surface present plane surfaces of sufficient area to prevent damage thereto.

Sec. 6299A. Size and weight of vehicles; width, height and length.

1. **Width.** No motor vehicle or other power vehicle having an overall width greater than nine (9) feet, including load, shall be operated or moved upon any public road, street or highway within the Territory of Hawaii, except as hereinafter provided.

2. **Height.** No motor vehicle or other power vehicle having an overall height greater than thirteen (13) feet, including load, shall be operated or moved upon any public road, street

or highway within the Territory of Hawaii, except as hereinafter provided.

3. **Length.** (a) No single motor vehicle or other power vehicle having a total overall length greater than forty (40) feet, including load, shall be operated or moved upon any public road, street or highway within the Territory of Hawaii, except as hereinafter provided.

(b) No truck-tractor and semi-trailer having a total overall length greater than fifty-five (55) feet, including load, shall be operated or moved upon any public road, street or highway within the Territory of Hawaii, except as hereinafter provided.

(c) No combination of motor vehicles or other power vehicles coupled together shall consist of more than two (2) units and no such combination of vehicles having a total overall length greater than sixty-five (65) feet, including load, shall be operated or moved upon any public road, street or highway within the Territory of Hawaii, except as hereinafter provided. A truck-tractor and semi-trailer shall be regarded as a single unit when determining the number of units in a combination.

(d) The foregoing limitations upon length shall not apply to vehicles transporting pipe, poles, timbers, reinforcing steel, structural steel or other objects of a structural nature which cannot be readily dismembered; provided, however, that when transported by night every such vehicle shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of any projecting load to clearly mark the dimensions of such load.

Sec. 6299B. Gross Weight, Axle and Wheel Loads. No motor vehicle or other power vehicle and/or combination of such vehicles equipped wholly with pneumatic tires, which has a total gross weight, including vehicle and load, in excess of the following requirements shall be operated or moved upon any public road, street or highway within the Territory of Hawaii, except as hereinafter provided.

1. The total gross weight of any such vehicle or combination of vehicles shall not exceed that determined by the following formula:

'W' = $800(L + 40)$; in which 'W' is the total gross weight, including vehicle and load, and 'L' is the distance in feet between the first and last axles of the vehicle or combination of vehicles.

2. The total gross weight upon any two (2) or more consecutive axles of any such vehicle or combination of vehicles, when the distance between the first and last axles of said two

(2) or more axles is eighteen (18) feet or less, shall not exceed that determined by the following formula:

'W' = $700 (L + 40)$; in which 'W' is the total gross weight imposed upon the highway by the group of axles under consideration, and 'L' is the distance in feet between the first and last axles of the group of axles under consideration.

3. The total gross load imposed upon the highway by any single axle shall not exceed twenty-four thousand (24,000) pounds. For the purposes of this subsection, axles placed in the same transverse plane which are closer than forty-two (42) inches shall be considered as one axle.

4. The total gross load imposed upon the highway by any one wheel, either single or dual mounting, shall not exceed twelve thousand (12,000) pounds.

5. The total average unit pressure imposed upon the highway by any individual tire shall not exceed sixty (60) pounds per square inch of tire contact area with pavement.

Computation of tire contact area shall be made in accordance with the following formulae:

Solid tires	Area = $1.2566_w 2$
Cushion tires	" = $1.4922_w 2$
Pneumatic tires	" = $1.5708_w 2$

in which 'W' is the measured width in inches of loaded tire impression upon a plane surface.

Sec. 6299C. Exceptions. In special cases of individual movements, vehicles whose dimensions and/or weights, including loads, exceed the provisions of the two preceding sections may be operated under special permits granted by the territorial highway engineer, or his representative, in the case of territorial highways, or by the city and county or county engineer, or his representative, in the case of county roads.

The granting authority may issue such permits under such conditions of time, route, equipment, speed and otherwise as he may determine.

No provision herein contained shall be so construed as to prevent the passage of ordinances by any county or city and county, which impose restrictions more severe in nature.

Sec. 6299D. Penalty. Any person violating any of the provisions of the four preceding sections shall be punished by a fine of not more than one hundred dollars for the first offense, and not more than two hundred fifty dollars for every subsequent offense."

Section 2. If any provision of this Act or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 3. All laws and ordinances or parts thereof inconsistent herewith are hereby repealed and declared null and void.

Section 4. This Act shall take effect upon its approval.

(Approved May 13, 1941.) **H.B. 383, Act 216.**

CHAPTER 214. VAGRANTS, DISORDERLY PERSONS, LOITERING.

[C-191] An Act to Prohibit Begging or the Solicitation of Alms Under the Guise of Sale of Merchandise or Any Other Guise, and Providing a Penalty Therefor, and Adding a New Section to Chapter 214 of the Revised Laws of Hawaii 1935.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 214 of the Revised Laws of Hawaii 1935, is hereby amended by adding a new section thereto to be numbered and known as section 6312, to read as follows:

“Sec. 6312. Begging or soliciting alms under guise of sale of merchandise; punishment. It shall be unlawful for any person to beg or solicit alms under the guise of selling merchandise or under any other guise. Any person who is maimed, or blind or suffering from other serious physical handicap, or who is in the disguise of a maimed, or blind or physically handicapped person, and who frequents any public place or canvasses private homes, and sells or offers to sell any article of merchandise or other thing of value, whether he possesses a peddler’s license or not, and (1) solicits sales by any plea directing attention to his aforesaid physical condition, whether actual or simulated, tending to incite sympathy therefor, or (2) repeatedly sells or offers to sell such article of merchandise or other thing of value for a price over 25% in excess of

its prevailing retail market value, or (3) repeatedly sells or offers to sell such article of merchandise or other thing of value for a price to be determined by his customer, or (4) when he has the use of either of his hands, uses a tin cup or other receptacle or device in receiving money from his customer, or (5) when he has the use of either of his hands, repeatedly permits his customer to make money change for himself, or (6) repeatedly accepts money in excess of the sale price of such article of merchandise or other thing of value, or (7) repeatedly accepts money without making delivery of any such article of merchandise or other thing of value, or (8) who conducts his operations in any manner tending to repeatedly make him a recipient of gifts or gratuities, shall be guilty of violation hereof, and shall be punished by a fine of not less than ten dollars nor more than five hundred dollars, or by imprisonment for not more than one year, or by both fine and imprisonment."

Section 2. This Act shall take effect upon its approval.

(Approved May 14, 1941.) **S.B. 481, Act 244.**

Title XXIII. PRISONS.

CHAPTER 217. PRISONS, JAILS, ADMINISTRATION; PRISONERS.

[C-192] An Act to Amend Chapter 217 of the Revised Laws of Hawaii 1935, as Amended, by Adding Thereto a New Section to be Numbered and Known as Section 6400-A, Relating to Territorial Prison Camps and the Transfer of Prisoners Thereto From Oahu Prison and the Use of Appropriations Therefor.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 217 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section to be numbered and known as section 6400-A and to read as follows:

"Sec. 6400-A. Territorial prison camps; transfer thereto and imprisonment therein. The two territorial prison camps

heretofore established and maintained in the County of Maui and the County of Hawaii shall be continued as territorial prison camps and shall be deemed to be and constitute a part of Oahu Prison. Any person convicted of a felony and sentenced to imprisonment in Oahu Prison may, upon order of the warden with the approval of the director, be transferred to, or returned to Oahu Prison from, any of such prison camps, and imprisonment in any such prison camp shall be and constitute imprisonment in Oahu Prison, provided, however, that no such person shall be transferred to any such prison camp who has been sentenced to suffer the punishment of death and no such sentence shall be executed in any such camp. The director, with the prior approval of the governor, may from time to time move and change the location of said prison camps anywhere within the limits of the county wherein said camps are now situate. Nothing in this section shall be construed to prohibit the transfer of prisoners from Oahu Prison as herein defined, to the territorial hospital or other territorial institutions as provided for by law.

Any appropriation now or hereafter made for Oahu Prison may be transferred, with the prior approval of the governor, to and for the use of any of said prison camps, and any appropriation now or hereafter made for any of said prison camps may be transferred, with the prior approval of the governor, to and for the use of Oahu Prison."

Section 2. This Act shall take effect from and after the date of its approval.

(Approved April 8, 1941.) **H.B. 150, Act 14.**

[C-193] An Act to Amend Chapter 217 of the Revised Laws of Hawaii 1935, as Amended, by Adding Thereto a New Section to be Known as Section 6405-C, Relating to the Transfer of Prisoners in the Territorial Prisons to the Settlement at Kalaupapa, Molokai, for Care and Treatment.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 217 of the Revised Laws of Hawaii 1935, as amended, is hereby amended by adding thereto a new section to be numbered section 6405-C and to read as follows:

"Sec. 6405-C. Transfer to settlement at Kalaupapa, Molokai. Upon receiving an application made by the director of

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institutions, which application shall be accompanied by a certificate of the board of hospitals and settlement that the prisoner has been declared a leper in the manner provided for in section 1148, Revised Laws of Hawaii 1935, the governor may direct the warden or other official having custody of any prisoner convicted of a felony and incarcerated in a territorial prison to cause such prisoner to be removed, notwithstanding any other provision of the law to the contrary, directly to the settlement at Kalaupapa for care and treatment, there to be kept until discharged under the provisions of chapter 36 of the Revised Laws of Hawaii 1935, or until the maximum sentence (without deduction for good time or commutation of sentence) shall have been served. After the maximum sentence has been served any such person shall become subject to the provisions of section 1154.

Any prisoner who may be discharged before the expiration of the maximum term of imprisonment shall be returned to the territorial prison to serve the remainder of his term, or such portion thereof as may be determined by the board of paroles and pardons pursuant to law."

Section 2. This Act shall take effect upon its approval.

(Approved April 8, 1941.) **S.B. 242, Act 11.**

BOARD OF PAROLES AND PARDONS.

[C-194] An Act to Amend Section 6414 of the Revised Laws of Hawaii 1935, as Amended by Act 203, Session Laws of Hawaii 1939, Relating to Acting Chairman, Meetings, Records, Reports, and Clerical Assistants of the Board of Paroles and Pardons.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6414** of the Revised Laws of Hawaii 1935, as amended by Act 203 of the Session Laws of Hawaii 1939, is hereby further amended by deleting therefrom the following:

"The director shall furnish the board with such clerical assistants as may be necessary within the limits of available appropriations; provided, that the board shall appoint its own administrative secretary."

and inserting in lieu thereof, the following:

"The board shall appoint its own administrative secretary

and such other clerical assistants as may be necessary within the limits of available appropriations, subject to any applicable salary classification and civil service schedules, laws and regulations, now or hereafter in effect.”

Section 2. All officers and employees of the board of paroles and pardons in the employ of said board on the effective date of this Act shall continue in their respective offices and employments under the jurisdiction and control of said board of paroles and pardons, subject to the provisions of the civil service Act.

Section 3. This Act shall take effect upon its approval.

(Approved May 2, 1941.) **S.B. 428, Act 146.**

[C-195] An Act to Amend Section 6420 of the Revised Laws of Hawaii 1935, as Amended by Act 203 of the Session Laws of Hawaii 1939, Relating to the Warden at Oahu Prison.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6420 of the Revised Laws of Hawaii 1935, as amended, is hereby amended in the following respects:

- (a) By deleting the first paragraph thereof;
- (b) By inserting at the beginning of said section the following:

“**Sec. 6420. Warden, Deputy, Duties, Powers.** The director shall appoint a warden who except as herein otherwise provided shall be exempt from civil service. Such appointment shall, for a period of six months, be probationary and during such time he shall serve at the pleasure of the director. Unless sooner removed by the director such appointment shall at the end of six months become permanent subject to the removal by the director for cause only. The warden when removed for cause may appeal to the territorial civil service commission within ten days after such action is taken. Upon such appeal both the warden and the director whose action of removal for cause is reviewed shall have the right to be heard publicly and to present evidence. When the findings of the commission deems that the cause for removal is unwarranted the director shall reinstate the warden and approve the payment of salary lost since removal.

The territorial civil service commission is hereby empowered and authorized to review the appeal of the warden when removed for cause, all territorial laws or parts of laws to the contrary notwithstanding.

The warden, under the control and supervision and subject to the rules of the director, shall have the immediate charge and direction of all territorial prisons and prison camps and the administration thereof. The warden shall be responsible for the safe keeping of all prisoners and persons who may be committed to such prisons and for the enforcement of proper order and discipline among and concerning prisoners and prison officers and employees."

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1941.) **H.B. 512, Act 177.**

LABOR BY PRISONERS.

[C-196] An Act to Repeal Section 6437 of the Revised Laws of Hawaii 1935, Relating to Prison Labor.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6437** of the Revised Laws of Hawaii 1935, is hereby repealed.

Section 2. This Act shall take effect on its approval.

(Approved May 8, 1941.) **S.B. 512, Act 184.**

STATISTICS FOR IDENTIFICATION OF CRIMINALS AND SUSPECTS.

[C-197] An Act to Amend Section 6462 of the Revised Laws of Hawaii 1935, as Amended by Acts 104 and 203 of the Session Laws of Hawaii 1939, Relating to Identification of Prisoners and Compilation of Crime Statistics.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6462** of the Revised Laws of Hawaii 1935, as amended by Acts 104 and 203 of the Session Laws of Hawaii 1939, is hereby further amended by deleting the words "board of paroles and pardons" and inserting in lieu thereof the words "director of institutions".

Section 2. This Act shall take effect upon its approval.

(Approved April 21, 1941.) **S.B. 89, Act 63.**

[C-198] An Act to Amend Section 6463, as Amended, and Section 6464, of the Revised Laws of Hawaii 1935, Relating to the Bureau of Crime Statistics.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6463** of the Revised Laws of Hawaii 1935, as amended by Act 203 of the Session Laws of Hawaii 1939, is hereby further amended by inserting the words "and identification" before the semicolon in the subtitle; and inserting the words "and identification" after the words "bureau of crime statistics" in the third line of said section.

Section 2. **Section 6464** of said Revised Laws of Hawaii 1935 is hereby amended by inserting the words "and identification" after the word "statistics" in the second line of said section.

Section 3. This Act shall take effect upon its approval.

(Approved April 15, 1941.) **S.B. 259, Act 32.**

Title XXIV. CORPORATIONS— PARTNERSHIPS.

CHAPTER 218. **BANKS: HAWAII BANK ACT OF 1931.**

DEFINITIONS.

[D-199] An Act to Amend Section 6504 of the Revised Laws of Hawaii 1935, as Amended by Act 159 of the Session Laws of Hawaii 1935 and Act 152 of the Session Laws of Hawaii 1939, Relating to Banks and Banking.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6504 of the Revised Laws of Hawaii 1935, as amended by Act 159 of the Session Laws of Hawaii 1935 and Act 152 of the Session Laws of Hawaii 1939, is hereby further amended to read as follows:

"Sec. 6504. Corporations excepted. Nothing in this chap-

ter shall be deemed to apply to national banks, save and except the provisions of sections 6581, 6582 and sections 6584 to 6594, inclusive, and section 6575A, which said sections as they now are or may hereafter be amended shall be applicable to national banks transacting business in the Territory except in so far as the same may be inconsistent with any Act of Congress or ruling of the comptroller of the currency of the United States; and nothing in this chapter shall be deemed to apply to trust or investment companies or building and loan associations transacting business in the Territory pursuant to and in accordance with the laws of the Territory relating to such companies or associations. Except as permitted by section 6654D, no company, corporation or association having the word 'savings' or 'saving' or any word of similar import in its name shall be permitted to engage in business in the Territory except in accordance with this chapter. [L. 1931, c. 177, s. 5; R. L. 1935, s. 6504; am. L. 1935, c. 159, s. 1; am. L. 1939, c. 152, s. 1; am. L. 1941, c. 107, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 25, 1941.) **S.B. 119, Act 107.**

BRANCH BANKS.

[D-200] An Act to Amend Section 6536 of the Revised Laws of Hawaii 1935, Relating to Branch Banks.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6536** of the Revised Laws of Hawaii 1935, is hereby amended by deleting therefrom the last sentence thereof, and by substituting therefor a sentence to read as follows:

"No bank shall be permitted to open or maintain more than one branch bank (whether designated as a branch bank or collection office) in addition to the main office of the bank within each of the following described zones in the district of Honolulu:

Zone I, extending from the western side of Nuuanu Avenue to the western limits of the district of Honolulu;

Zone II, extending from the eastern limits of zone I to a line beginning at the sea and running along Kapahulu Avenue to the intersection of Kapahulu Avenue and Waialae Road, and thence following easterly on Waialae Road to St. Louis Drive, and thence along St. Louis Drive and Dole Street Ex-

tension to the boundary between Manoa Valley and Palolo Valley, and thence along said boundary to the Koolau range;

Zone III, extending from the eastern limits of zone II to the eastern limits of the district of Honolulu.”

Section 2. This Act shall take effect upon its approval.

(Approved April 24, 1941.) **S.B. 297, Act 97.**

GENERAL PROVISIONS.

[D-201] An Act to Amend Section 6581 of the Revised Laws of Hawaii 1935, Relating to Notaries Public Connected With Banks and Their Authority to Act as Such.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6581 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“**Sec. 6581. Notary connected with bank; authority to act.** It shall be lawful for any notary public, although an officer or employee of a bank and not being a shareholder or director thereof, to take the acknowledgment of any party to any written instrument executed to or by the bank, or to administer an oath to any shareholder, director, officer, employee or agent of the bank, or to protest for non-acceptance or non-payment of bills of exchange, drafts, checks, notes and other negotiable instruments which may be owned or held for collection by the bank; provided, it shall be unlawful for any notary public to take the acknowledgment of any party to an instrument, or to protest any negotiable instrument, where the notary is individually a party to the instrument.” [L. 1931, c. 177, s. 80; R. L. 1935, s. 6581; am. L. 1941, c. 65, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 21, 1941.) **S.B. 152, Act 65.**

CHAPTER 219. BUILDING AND LOAN ASSOCIATIONS.

[D-202] An Act to Amend Chapter 219 of the Revised Laws of Hawaii 1935, as Amended, Relating to Building and Loan Associations, by Amending Sections 6651, 6652, 6653, 6663, 6664, 6665, 6668, 6669, 6669-A, and 6677 Thereof and by Adding Thereto New Sections to Be Numbered Sections 6651-A, 6652-A, 6653-B, 6654-F, 6655-A, 6658-A, 6668-A, 6668-B, 6669-C, 6669-D, and 6672-A, All Pertaining to the Government, Administration and Functions of Building and Loan Associations.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6651** of the Revised Laws of Hawaii 1935, as amended by Act 197 of the Session Laws of Hawaii 1935 and by Act 174 of the Session Laws of Hawaii 1939, is hereby further amended by adding at the end thereof two new paragraphs to read as follows:

“‘Home’ shall mean a dwelling or dwellings for not more than four families, situate on one or more lots, one or more of which is used by the owner as his residence. A property does not cease to be a home because of the incidental use of it for minor business purposes so long as the principal use of the property is for residence purposes.

‘Net earnings’ means gross income for the accounting period less the aggregate of the following:

1. Operating expenses.
2. Real estate expenses.
3. All losses actually sustained during such accounting period from the sale of securities, real estate or other property, or such portion of such losses as shall not have been charged to reserves.
4. All interest paid on borrowed money.
5. Other non-recurring charges.

Provided, however, that nothing herein contained shall be deemed to change the meaning, intent or operation of section 6663-A as enacted by Act 77 of the Session Laws of Hawaii 1939.”

Section 2. Chapter 219 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section, to be numbered section 6651-A, and to read as follows:

“**Sec. 6651-A. Application for authority to organize; fee; contents.** Any five or more persons, of whom a majority must

be residents of the territory, desiring to form a corporation to carry on the business of a building and loan association under the provisions of this chapter, shall file with the bank examiner of the territory an application, in writing and under oath, for authority to organize such association. The applicants shall pay to the treasurer at the time their application is filed a fee of one hundred dollars, which fee shall in no case be refunded. No persons shall organize a building and loan association or circulate a stock subscription list for the organization of a building and loan association until written authority for that purpose has been obtained from the bank examiner. The application shall be in duplicate and in such form as prescribed by the bank examiner, and shall specify to the extent then determined in regard to the proposed building and loan association :

1. The proposed location; the amount of capital, (which shall not be less than the minimum required by this chapter); the corporate name;
2. The names of the proposed subscribers to the capital stock and the amount of stock for which each will probably subscribe; the names of the proposed active officers and directors;
3. Any other information which the bank examiner may require.

Upon the filing of such application, if the bank examiner shall upon investigation find (1) that the financial responsibility, experience, character and general fitness of the applicants and of the officers or members thereof are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly and efficiently within the purposes of this chapter; (2) that allowing such applicants to engage in such business will promote the convenience and advantage of the locality or community in which the business of the applicants is to be conducted; and (3) that capital stock in excess of twenty-five thousand dollars (\$25,000.00) has been subscribed for and 10% paid to the applicants in cash; he shall write upon the face of said application the fact that he has approved the same, together with the date, and affix his signature. The application shall then be returned to the applicants who shall upon receipt of the approved application transmit the same within 30 days to the treasurer, together with articles of association, and pay to the treasurer the corporation and other filing fees required by law.

No application shall be disapproved except after the applicants shall have had a notice of a hearing on said application and an opportunity to be heard thereon. If the application is

denied, the bank examiner shall, within 20 days thereafter, prepare and keep on file in his office, a written order of denial thereof, which shall contain his findings with respect thereto and the reasons supporting the denial, and forthwith serve upon the applicants a copy thereof. Within 10 days after the receipt of such copy the applicants may appeal from said order of denial to a board consisting of the treasurer, auditor and tax commissioner by filing with said auditor a notice of appeal. After notice by mail to the applicants and after a hearing at which the applicants shall be entitled to be present and to be heard, the said board shall file with the auditor its decision in writing either ordering the bank examiner to approve the application or affirming his action in disapproving the same. A copy of the decision or order of said board shall forthwith be served upon the applicants by the bank examiner. Within 10 days after the receipt of such copy the applicants may appeal from an adverse decision of the board to a circuit judge at chambers of the circuit in which the applicants propose to engage in business by filing a notice of appeal with the clerk of the circuit court of said circuit. After notice by mail to the applicants and after a hearing at which the applicants shall be entitled to be present and to be heard, the said judge may order the bank examiner to approve the application or affirm his action in disapproving the same."

Section 3. Section 6652 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 6652. Articles of association, contents. When authorized in writing by the bank examiner as provided in section 6651-A, any five or more persons of whom at least three shall be residents of the territory, may associate themselves by articles of association to establish a building and loan association under this chapter, upon the terms and conditions and subject to the liabilities prescribed herein, and not otherwise. The articles of association shall be executed and filed in duplicate with the treasurer, and shall specify:

1. The name of the corporation, which shall include the words 'building and loan association', or 'building and loan society', or 'building and loan company', or 'savings and loan association', or 'savings, building and loan association', and which name shall not include any of the words 'bank', 'banking', 'trust', or 'fidelity', nor import any business of a character denoted by any of said words;

2. The purposes for which it is organized;

3. The principal place of its business;

4. The names and places of residence of the incorporators;

5. The term of corporate existence, which shall not exceed fifty years unless subsequently extended as by law provided in the case of other corporations;

6. The number of its directors, which shall not be less than five nor more than fifteen, and the names of the directors to serve for the first year;

7. The number and designation of officers, and the names of the officers to serve upon incorporation;

8. The amount of the initially authorized capital stock, which shall in no case be less than twenty-five thousand dollars (\$25,000.00) maturity value, and the names and post office addresses of the subscribers therefor;

9. The amount of the initially paid-in capital, in cash, which shall in no case be less than two thousand five hundred dollars (\$2,500.00).

There shall also be filed with the treasurer at the time of filing the articles of association an affidavit sworn to by the president, secretary and treasurer of the association, setting forth specifically the amount of authorized capital stock and the number of shares representing same, the names of the subscribers for shares, with their post office addresses, and the amount of the capital initially paid in cash on each subscription." [L. 1927, c. 208, s. 3; R. L. 1935, s. 6652; am. L. 1941, c. 272, s. 3.]

Section 4. Chapter 219 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section, to be numbered section 6652-A, and to read as follows:

"Sec. 6652-A. Articles of incorporation; approval or disapproval by treasurer. The treasurer shall, within sixty days after receiving such articles of incorporation, indorse upon them his approval or disapproval, with the date, over his signature. If the articles of incorporation shall be by him disapproved, he shall return them to the incorporators; and, if approved, he shall file one copy thereof in his office and deliver the duplicate to the incorporators and shall, upon payment of the proper fees therefor, issue to the incorporators a certificate of incorporation under his official seal, showing the name assumed by the association, the duration of its existence, the amount of its capital stock, the date of the filing of its articles of incorporation, and the date of approval thereof, and the location of its place of business. Upon the issue of such certificate of incorporation the corporate existence shall begin and said association shall be entitled to engage in business. The incorporators shall retain the duplicate of the articles of incorporation as part of the records of such association.

The fee for filing shall be the same as for other corporations.”

Section 5. **Section 6653** of the Revised Laws of Hawaii 1935, as amended by Act 197 of the Session Laws of Hawaii 1935, is hereby further amended:

(a) By amending the fifth paragraph thereof to read as follows:

“To purchase, hold and dispose of any real estate upon which it may have a mortgage or in which it may have any interest; and it may sell, lease, mortgage or otherwise deal with and dispose of the same at pleasure, but shall not otherwise acquire or deal in real estate; provided, that the association may acquire such real estate or a leasehold interest therein, the whole or any part of which may be necessary for a location for the transaction of its business, provided that the cost of land and improvements shall not exceed the association’s undivided profits and reserve accounts unless the prior approval of the bank examiner is obtained; provided, further, that any real estate except that used for its business location shall be sold by the association within five years from the time of acquisition thereof.”

(b) By amending the seventh paragraph thereof to read as follows:

“To borrow money for any of the purposes authorized by this chapter, provided, that if and when an association is not a member of a federal home loan bank, it may borrow not more than an aggregate amount equal to one-fourth of its capital on the date of borrowing, and if and when an association is a member of a federal home loan bank, it may borrow not more than an aggregate amount equal to one-half of its capital; provided, further, that within such amount equal to one-half of its capital, the association may borrow from sources other than such federal home loan bank an aggregate amount not in excess of 25 per cent of its capital; a subsequent reduction of capital shall not affect in any way outstanding obligations for borrowed money; all such loans and advances may be secured by property of the association.”

[**Sec. 6653-A**, added by Act 62, *infra*, page 280.]

Section 6. Chapter 219 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section, to be numbered section 6653-B, and to read as follows:

“**Sec. 6653-B. Branch offices and agencies.** Each association shall be operated from the main office in the territory.

All branch offices and agencies shall be subject to direction from such main office. No association may establish or maintain a branch office or agency without the prior written approval of the bank examiner, except that temporary and incidental agencies may be created for individual transactions and for special temporary purposes without such approval. Each application for approval of the establishment and maintenance of a branch office or an agency shall state the proposed location thereof, the need therefor, the functions to be performed therein, the estimated annual expense thereof, and the mode of payment therefor. Each such application shall be accompanied by a budget of the association for the current dividend period and for the next succeeding semi-annual period, which reflects the estimated additional expense of the maintenance of such a branch office or agency. Upon the receipt by the bank examiner of such an application, he shall determine whether the establishment and maintenance of such office will unduly injure any properly conducted existing association in the community where such branch office or agency is proposed to be established, or in any neighboring community. If he finds that no undue injury is likely to result and that the establishment and maintenance of such branch office or agency is advisable, he may approve the application.

A branch office is a legally established place of business of the association, other than the home office or any agency, authorized by the board of directors and approved by the bank examiner, at which payments on accounts and loan payments may be accepted and applications for loans may be received but may not be approved, and at which pass books and share or investment certificates may be issued and loans, when properly approved, may be closed.

An agency of an association is the place of business, other than the home office or a branch office, at which an agent or agents of the association transact authorized business of the association. At any such agency payments on accounts and loan payments may be received solely for transmission to the home office or a branch office of the association, but may not be accepted for or on behalf of the association. At any such agency an agent or agents may, however, perform such other special duties as may be directed from time to time by the home office or a branch office. No such agency shall be authorized, however, to issue pass books and share or investment certificates.

No loan may be approved at any branch office or agency of the association but solely at the main office in the territory after approval by the board of directors or authorized committee.

The bank examiner may revoke his approval of the maintenance of any branch office or agency by a written notice to the association fixing a reasonable time after which the association shall cease to use and maintain such branch office or agency.

Any association aggrieved by any action of the bank examiner under this section may appeal therefrom to a board, consisting of the treasurer, auditor and tax commissioner by filing with said auditor a notice of appeal.

Associations, on the effective date of this section, which operate branches or agencies, shall within ninety days thereafter obtain the written approval of the bank examiner as provided herein for the operation of such branch or agency."

Section 7. Chapter 219 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section, to be numbered section 6654-F, and to read as follows:

"Sec. 6654-F. Rights of members. The rights, privileges and powers, and the duties and liabilities of members of an association are fixed by the charter, by-laws and this chapter. An annual meeting of the members of each association shall be held in the months of January, February or March, as fixed in the by-laws of such association. Every association shall prepare and deliver to each member upon application therefor, a statement of its financial condition, in the form prescribed or approved by the bank examiner.

All shareholders of record and all borrowers from the association shall be members thereof. Any person, including an adult individual, male or female, single or married, a partnership, association, and corporation, may be a borrower from the association, provided such person has full legal power to contract for the payment of a loan under the laws of this territory.

Voting may be by proxy, provided the proxy instrument authorizing the proxy to vote shall have been executed in writing by the member. Any number of members present at a regular or special meeting of members constitutes a quorum. When not inconsistent with law a majority of all votes cast at any meeting of members shall determine any question. The members who shall be entitled to vote at any meeting of the members shall be those owning accounts of record and borrowing members of record at the end of the calendar month next preceding the date of the meeting of members, except those who have ceased to be members. The number of votes of each member shall be determined pursuant to the provisions of paragraph 9, section 6653. The association shall not

directly or indirectly charge any membership, admission, repurchase, withdrawal, or any other fee or sum of money, for the privilege of becoming, remaining, or ceasing to be a member of the association, except as provided for by this chapter and excepting reasonable charges upon the making of a loan; provided that this provision shall not prejudice the rights of any association to collect, receive or charge fees contracted to be paid prior to the effective date of this section. The association shall not charge any member any sum of money by way of fine or penalty for any cause, except that a reasonable charge may be made against borrowers for defaults or prepayments.

A borrowing member obligated upon a real estate loan shall remain a member of the association, even though he shall have transferred the real estate security subject to the real estate loan, so long as such borrowing member remains obligated upon the real estate loan; provided, however, that the association may, at the request of such borrowing member and the transferee of such real estate security, transfer such membership to any transferee of such real estate security, who is obligated on the real estate loan. No such transfer of such membership, however, shall release the transferor from the obligation of the real estate loan."

Section 8. Chapter 219 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section, to be numbered section 6655-A, and to read as follows:

"Sec. 6655-A. Lost share or investment certificates. Upon the filing with an association by a member of record, or his legal representative, of an affidavit to the effect that the share or investment certificate evidencing his account in the association has been lost, stolen or destroyed, and that such share or investment certificate has not been pledged or assigned, in whole or in part, such association shall issue a new share or investment certificate, in the name of such holder, of record, evidencing his account in the association and shall cause the lost, stolen or destroyed certificate to be cancelled on the records of the association; provided, however, that the board of directors may in its discretion require such member or his legal representative to furnish a bond to the association in an amount sufficient to indemnify it against any loss which might result from the issuance of such new share or investment certificate."

[**Sec. 6658.** Amended by Act 153, *infra*, page 281.]

Section 9. Chapter 219 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section, to be numbered section 6658-A, and to read as follows:

“Sec. 6658-A. Brokerage business and purchase and sale of loans. No association shall engage in the mortgage brokerage business. Every association shall primarily use its funds in making home loans originated by it rather than in purchasing loans, but may incidentally purchase loans of any type which it is permitted to make; provided, that no association may purchase any real estate loans or other property from an affiliated institution, or from an institution in liquidation, without the approval of the bank examiner.

An ‘affiliated institution’ means:

1. An institution in which the purchasing association has a substantial investment, or
2. An institution which has a substantial investment in the purchasing association, or
3. An institution of which the majority of the board of directors are the same persons who constitute a majority of the board of directors of the purchasing association, or
4. An institution in which the operating manager or members of the executive, loan, advisory or any other administrative committees of the association have a substantial financial interest.

An ‘institution in liquidation’ means:

1. An institution which has been taken over for liquidation pursuant to law, or
2. An institution which, in conformity with law, has determined to dissolve.

Associations may originate and sell mortgages insured under Title II of the National Housing Act; provided that a charge is made and collected by the association sufficient to reimburse it for the expense incurred in originating such business. Each mortgage sold by an association, whether so insured or not, shall be sold without recourse, and, if under a contract to service the same, on a basis which will reimburse the association adequately for the cost of such servicing.

Except as above provided, no association shall make the purchase and sale of mortgages a substantial or routine part of its business. No association which holds a mortgage or other instrument securing a debt which is a first lien upon real estate and which simultaneously holds one or more additional mortgages or other instruments securing a debt and constituting liens inferior to the first lien upon the same real

estate, shall sell or otherwise dispose of any such mortgage or other instrument, unless it shall simultaneously sell or otherwise dispose of all mortgages or other instruments constituting inferior liens upon the same real estate."

Section 10. Section 6663 of the Revised Laws of Hawaii 1935, as amended by Act 197 of the Session Laws of Hawaii 1935, is hereby further amended to read as follows:

"Sec. 6663. Dividends. As of June 30 and December 31 of each year, after payment or provision for all expenses and appropriate transfers to reserves and undivided profits, the board of directors shall declare a dividend payable to the shareholders of record on June 30th and December 31st of each year, respectively, or if either such date be a legal holiday, on the next preceding business day. No dividends shall be declared except dividends payable on said dividend dates. Payments of net earnings to shareholders are dividends and shall not be referred to as interest. Dividends shall be credited to accounts on the books of the association on the dividend payment date unless a shareholder shall have requested and the board of directors shall have agreed to pay dividends on all or part of any account in cash. Dividends payable in cash shall be paid on the dividend payment date and may be paid by check or bank draft. All holders of withdrawable shares shall participate equally in dividends pro rata to the book value of their respective accounts; provided that no association shall be required to pay or credit dividends on accounts of five dollars (\$5.00) or less. Except as above provided, dividends shall be declared on the book value of each account at the beginning of the dividend period, plus payments thereon made during the dividend period (less amounts repurchased and noticed for repurchase, which for dividend purposes shall be deducted from the latest previous payments thereon) computed at the dividend rate for the time invested, determined as provided below. The date of investment shall be the date of the actual receipt by the association of a payment on an account, except that the board of directors may fix a date, which shall not be later than the tenth of the month, for determining the date of investment, provided, however, that the board of directors may permit investments of one hundred dollars (\$100.00) or more to receive dividends calculated from the date of actual receipt by the association in any event. Payments on accounts affected by such determination date, received by the association on or before such determination date, shall receive dividends as if invested on the first of the month during which such payment was made.

Dividends shall not be declared, credited or paid in any year in excess of net earnings for such year added to any accumulated undivided profits.

No association shall agree to pay a fixed amount in dividends upon any accounts issued by it." [L. 1927, c. 208, s. 13; am. L. 1931, c. 283, s. 4; R. L. 1935, s. 6663; am. L. 1935, c. 197, s. 5; am. L. 1941, c. 272, s. 10.]

Section 11. **Section 6664** of the Revised Laws of Hawaii 1935, as amended by Act 174 of the Session Laws of Hawaii 1939, is hereby further amended by amending the first paragraph thereof to read as follows:

"Membership fees may be charged but must be stated and paid as such separately from any dues. No such fee shall exceed two per centum of the maturity value of the stock or investment certificates subscribed for, and in no case shall the aggregate of such fees (except on fully paid shares and certificates) charged to any shareholder or investor be in excess of twenty-five dollars (\$25.00). No portion of such fee may be a realization of any salaried officer or employee of the association."

Section 12. **Section 6665** of the Revised Laws of Hawaii 1935, as amended by Act 197 of the Session Laws of Hawaii 1935, is hereby further amended by deleting therefrom the last paragraph and inserting in lieu thereof the following new paragraph:

"Every association shall keep and maintain a permanent record of requests for withdrawal of over one hundred dollars (\$100.00). Such record shall contain the date of the request, the name of the person, the number of the account, date of payment and amount paid or other disposition made of the request. Each request for withdrawal shall be numbered and filed in the order received."

[**Sec. 6665**, also amended by Act 153, *infra*, page 281.]

Section 13. **Section 6668** of the Revised Laws of Hawaii 1935, as amended by Act 197 of the Session Laws of Hawaii 1935, is hereby further amended to read as follows:

"**Sec. 6668. Real estate loans—ordinary.** Ordinary loans shall be made only on the home in the territory of the borrower, and shall be secured by mortgage on real estate and improvements of such home, such mortgage not to exceed 75 per cent of the unencumbered appraised value thereof.

Payments on real estate loans shall be applied monthly, quarterly or semi-annually as set forth in each mortgage and

promissory note, first to the payment of interest on the unpaid balance of the loan, the remainder to the reduction of the loan; provided that if the loan is in default in any manner, payments may be applied by the mortgagee in any manner approved by the bank examiner. Every loan shall be evidenced by a note or bond for the amount of the loan. The note or bond shall specify the amount, rate of interest, terms of repayment, and may contain all other terms of the loan contract. Every real estate loan shall be secured by a mortgage or other instrument constituting a first lien, or the full equivalent thereof, upon the real estate securing the loan, according to any lawful or well recognized practice, which is best suited to the transaction. Any such instrument, constituting a first lien, is herein termed a 'mortgage'. Such mortgage shall provide specifically for full protection to the association with respect to usual insurance risks, taxes, assessments, other governmental levies, maintenance and repairs. It may provide for an assignment of rents, which assignment shall be valid. Every such mortgage or other instrument shall create, and preserve to the association, a first lien, which shall equally secure the original loan and each and every subsequent advance and loan in any amount and for any purpose by the association to such borrower. No subsequent loan to such borrower by any other person shall establish an intervening lien, which shall disturb the first lien of such association as security for every advance and loan made to such borrower. All such mortgages shall be recorded in accordance with the law of this territory. An association may pay taxes, assessments, insurance premiums and other similar charges for the protection of its real estate loans. All such payments shall be added to the unpaid balance of the loan and shall be equally secured by the first lien on the property. An association may require the borrower to pay monthly in advance the equivalent of one-twelfth of the estimated annual taxes, assessments, insurance premiums and other charges upon the real estate securing the loan, or any of such charges, so as to enable the association to pay such charges as they become due from the funds so received. The amount of such monthly charges may be increased or decreased so as to provide reasonably for the payment of the estimated annual taxes, assessments, insurance premiums and other charges. Every association shall keep a record of the status of taxes, assessments, insurance premiums and other charges on all real estate securing its loans and on all real and other property owned by it. All real estate loans may be prepaid, in part or in full, at any time, and the association shall not charge for such privilege of anticipatory

payment an amount greater than 1 per cent of the amount of such anticipatory payment.

An association, by agreement with the debtor, may modify the terms of any real estate loan so that such loan shall be an amortized loan, and incident thereto may credit on the debt the book value of mortgage loan shares or accounts pledged as security for such real estate loan.

In the event that the value of the property securing any such loan shall depreciate or shall otherwise be found to be below the margin of excess over face value of such loan required by this section, the association may be permitted to hold the same upon such conditions as the bank examiner in writing may prescribe provided a reserve, in addition to the reserve otherwise required by law, shall be set up by the association sufficient to cover the amount of such deficiency." [L. 1927, c. 208, s. 18; R. L. 1935, s. 6668; am. L. 1935, c. 197, s. 8; am. L. 1941, c. 272, s. 13.]

Section 14. Chapter 219 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section, to be numbered section 6668-A, and to read as follows:

"Sec. 6668-A. Share loans—ordinary. Ordinary loans may also be made on the sole security of share accounts or investment certificates. No such loan shall exceed ninety per cent of the withdrawal value of the share accounts or investment certificates owned or otherwise pledged by the borrower. No such loan shall be made when an association has applications for withdrawal which have been on file more than 30 days and have not been reached for payment."

Section 15. Chapter 219 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section, to be numbered section 6668-B, and to read as follows:

"Sec. 6668-B. Loan expenses. Every association may require borrowing members to pay all reasonable expenses incurred in connection with the making, closing, disbursing, extending, readjusting, or renewing of real estate loans. Without limiting the generality of the foregoing, such expenses may include appraisal, attorney's, abstract, recording, and registration fees, title examination, credit report, survey, drawing of papers, loan closing costs, and taxes or fees imposed upon or in connection with the making and recording of any mortgage. Every association may also require borrowing members to pay the cost of all other necessary and incidental services ren-

dered by the association or by others in connection with real estate loans in such reasonable amounts as may be fixed by the board of directors. Without limiting the generality of the foregoing, such costs may include the cost of services of inspectors, engineers, and architects. Such reasonable initial charges may be collected by the association from the borrower and paid to any persons, including any director, officer, or employee of the association, rendering such services, or paid directly by the borrower. In lieu of such initial charges to cover such expenses and costs, an association may charge a reasonable service charge, part or all of which may be retained by the association which renders such service, or part or all of which may be paid to others who render such services. No director, officer, or employee of an association shall receive any fee or other compensation of any kind in connection with procuring any loan for any association, except for services actually rendered as above provided. No loan shall be made when the borrower is required to pay to the association in connection with the loan any charges or fees, except as herein provided. The association shall ascertain the total amount paid by each borrower to it in connection with the loan, and shall furnish a loan settlement statement to each borrower upon the closing of the loan, indicating in detail the charges and fees such borrower has paid or obligated himself to pay to the association in connection with such loan, the rate of interest charged and the method of computing interest, the amount of periodic payments and a statement of whether or not payments include both interest and principal. A copy of such statement signed by the borrower shall be retained in the records of the association."

Section 16. Section 6669 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 6669. Loans, surplus funds. When funds shall accumulate in excess of the demands from members for ordinary loans, such surplus funds may be loaned to either members or non-members irrespective of the purpose for which the loan is desired, secured by mortgage on real estate in the territory, or by bonds, debentures and notes issued by any federal home loan bank; provided that no such loan shall exceed twenty thousand dollars (\$20,000.00) to one individual and provided, further, that the aggregate amount of all loans made pursuant to this provision shall not at any time exceed twenty per cent of the capital of the association.

Surplus funds may also be invested in stock issued by any federal home loan bank of which such association may be

eligible to be a member and in bonds, debentures and notes issued by any federal home loan bank and in securities satisfactory to the board of directors and of a character suitable for trust investment." [L. 1927, c. 208, s. 19; L. 1933, c. 167, s. 2; R. L. 1935, s. 6669; am. L. 1941, c. 272, s. 16.]

Section 17. Section 6669-A of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 6669-A. Appraisals. All real estate upon the security of which any loan is to be made by an association shall be appraised prior to making such loan. Such appraisals shall be made by a competent independent appraiser who has no connection with the association either as director, employee or officer and shall be made in such form as shall be designated or approved by the bank examiner. Such appraisals shall be kept in the files of the association and duplicate originals thereof shall within ten days be filed in the office of the bank examiner." [L. 1935, c. 197, s. 9; R. L. 1935, s. 6669-A; am. L. 1941, c. 272, s. 17.]

Section 18. Chapter 219 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section, to be numbered section 6669-C, and to read as follows:

"Sec. 6669-C. Restrictions on loans.

1. No loan shall exceed twenty thousand dollars (\$20,000.00).
2. No loan shall be made to or for the benefit of a director, an officer or employee, except when secured by home property owned and occupied by such director, officer or employee.
3. No loan shall be made upon the security of any of its own guaranty stock or permanent non-withdrawable capital stock; and any officer or director who shall make any such loan or consent thereto shall be personally liable to the association for the full amount thereof, and shall also be guilty of a misdemeanor and upon conviction shall be punished as hereinafter provided."

Section 19. Chapter 219 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section, to be numbered section 6669-D, and to read as follows:

"Sec. 6669-D. Lien on accounts. To secure loans to members an association shall have a lien, without further agreement or pledge, upon all share or other accounts owned by

the borrower in such associaiton. Upon default of any loan, the association may, without any notice to, or consent of, the borrower, cancel on its books all or any part of such share or other accounts owned by the borrower and apply the value of such cancellations in payment on account of the loan. An association may waive its lien in whole or in part by writing. Any association may take the pledge of an account or accounts of the association owned by a member other than the borrower as additional security for any loan secured by an account or by an account and real estate, or as additional security for any real estate loan."

[**Sec. 6671.** Amended by Act 93, *infra*, page 282.]

Section 20. Chapter 219 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section, to be numbered section 6672-A, and to read as follows:

"Sec. 6672-A. Foreign associations. No foreign corporation or association shall hereafter transact any business of a building and loan association within this territory or maintain an office in this territory for the purpose of transacting such business. Federal savings and loan associations, incorporated pursuant to Home Owner's Loan Act of 1933, shall not be deemed foreign corporations or associations within the meaning of this section, and any such federal association shall be subject to the same taxation and entitled to the same privileges as associations subject to this chapter.

This section shall not apply to any foreign corporation or association heretofore qualified to do business in the territory and now engaged in business as a building and loan association, and all such foreign corporations and associations shall be entitled to continue to carry on such business, subject to all the provisions, limitations and restrictions contained in this chapter and any other applicable law."

Section 21. Section 6677 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 6677. Bonds of directors, officers and employees. Every association shall provide and maintain a fidelity bond covering all its directors, officers and employees having control of or access to moneys or securities of such association for any pecuniary loss the association may sustain of money or other property by or through any fraud, dishonesty, forgery or alteration, larceny, theft, embezzlement, robbery, burglary, hold-up, wrongful or unlawful abstraction, misapplication, misplacement, destruction or misappropriation, or any

other dishonest or criminal act or omission, or infidelity to duty of or by any such director, officer, employee or agent. Such bond may be in the form of individual bonds, a schedule fidelity bond, or a blanket bond covering all such persons. Associations which employ collection agents, who for any reason are not covered by a bond as hereinabove required, shall provide for the bonding of each such agent in an amount equal to at least twice the average monthly collections of such agent. Such agents shall be required to make settlement with the association at least weekly. No bond coverage will be required of any agent which is a bank insured by the federal deposit insurance corporation or an institution insured by the federal savings and loan insurance corporation. The amounts and form of fidelity bonds covering officers, directors and employees and the sufficiency of the surety thereon shall be approved by the board of directors and by the bank examiner, provided that the amount of any such bond shall be at least two thousand five hundred dollars (\$2,500.00) and not less than 2 per cent of the assets of the association up to one million two hundred and fifty thousand dollars (\$1,250,000.00) and twenty-five thousand dollars (\$25,000.00) where the assets are in excess of one million two hundred and fifty thousand dollars (\$1,250,000.00)." [L. 1927, c. 208, s. 26; R. L. 1935, s. 6677; am. L. 1941, c. 272, s. 21.]

Section 22. This Act shall take effect upon its approval.

(Approved May 16, 1941.) **S.B. 299, Act 272.**

[D-203] An Act to Amend Section 6653-A of the Revised Laws of Hawaii 1935, Relating to Notaries Public Connected With Building and Loan Associations and Their Authority to Act as Such.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6653-A of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 6653-A. Notary public connected with association; authority to act. It shall be lawful for any notary public, although an officer or employee of a building and loan association and not being a shareholder, member, or director thereof, to take the acknowledgment of any party to any written instrument executed to or by the association, or to administer an oath to any shareholder, member, director, officer, employee

or agent of the association, or to protest for non-acceptance or non-payment of bills of exchange, drafts, checks, notes and other negotiable instruments which may be owned or held for collection by the association; and in general, to do and perform any act pertaining to the powers and duties of a notary public; provided, however, that it shall be unlawful for any such notary public to take the oath or acknowledgment of any party to an instrument, or to protest any negotiable instrument, where such notary is individually a party to the instrument." [L. 1935, c. 197, s. 3; R. L. 1935, s. 6653-A; am. L. 1941, c. 62, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 21, 1941.) **S.B. 28, Act 62.**

[D-204] An Act to Amend Section 6658 of the Revised Laws of Hawaii 1935 and Section 6665 of the Revised Laws of Hawaii 1935, as Amended by Act 197 of the Session Laws of Hawaii 1935, Relating to Building and Loan or Savings and Loan Associations.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6658 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 6658. Joint accounts. Shares, share accounts or investment certificates of any building and loan or savings and loan association operating in this Territory, including any federal savings and loan association, may be issued to or in the name of two or more persons or the survivor or survivors, and, in the event of the death of any of them, the association shall be liable thereon only to the survivor or survivors, and while any of them are living, payment to any of them shall discharge the liability to all. The joint ownership of shares or share accounts shall not confer the right to vote to any greater extent than if such shares or share accounts were held by an individual." [L. 1927, c. 208, s. 8; R. L. 1935, s. 6658; am. L. 1939, c. 140, s. 3; am. L. 1941, c. 153, s. 1.]

Section 2. **Section 6665** of the Revised Laws of Hawaii 1935, as amended by Act 197 of the Session Laws of Hawaii 1935, is hereby further amended by amending the second sentence of the first paragraph thereof to read as follows:

"Shareholders or certificate holders desiring to make with-

drawals in excess of \$100.00 shall file with the association their written application therefor, and the association shall number and file the same in the order received, and either pay the holder the value thereof, in part or in full as requested, or, after 30 days from the receipt of such application to withdraw, apply at least one-third of the receipts of the association from its shareholders and borrowers to the payment of such withdrawal applications in numerical order."

Section 3. This Act shall take effect from the date of its approval.

(Approved May 3, 1941.) **S.B. 350, Act 153.**

[D-205] An Act Amending Section 6671 of the Revised Laws of Hawaii 1935, as Amended by Act 137 of the Session Laws of Hawaii 1939, Relating to Building and Loan Associations, to Provide for the Employment of Special Counsel by Conservator.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6671** of the Revised Laws of Hawaii 1935, as amended by Act 137 of the Session Laws of Hawaii 1939, is hereby further amended by amending the fourth sentence of paragraph (b) thereof to read as follows:

"The conservator shall not liquidate assets except in the ordinary course of operations, or incur any expenses other than normal operating expenses, except that he may retain special counsel to assist, advise, or represent him in the performance of his duties hereunder."

Section 2. This Act shall take effect upon its approval.

(Approved April 24, 1941.) **S.B. 366, Act 93.**

CHAPTER 221. CORPORATIONS.

[D-206] An Act to Amend Chapter 221 of the Revised Laws of Hawaii 1935, as Amended, by Adding Thereto a New Section to be Known as Section 6752-A, Relating to Certain Corporate Exhibits.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 221 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section to be known as section 6752-A, to read as follows:

“Sec. 6752-A. [Tax exempt corporations, exhibits of.] Any eleemosynary, religious, literary or educational corporation, and any corporation promoting solely amateur athletics, which, because of the nature of its activities, is exempted from real property or other taxes, in whole or in part, shall submit such annual exhibits as may be required by the treasurer, in order to furnish information as to whether or not such corporation has qualified for the tax exemption.”

Section 2. This Act shall take effect upon its approval.

(Approved May 14, 1941.) **S.B. 252, Act 252.**

DISSOLUTION.

[D-207] An Act to Amend Section 6754 of the Revised Laws of Hawaii 1935, as Amended by Act 95 (Series D-158) of the Session Laws of Hawaii 1939, Relating to the Voluntary Dissolution of Corporations.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6754** of the Revised Laws of Hawaii 1935, as amended by Act 95 (Series D-158) of the Session Laws of Hawaii 1939, is hereby further amended by inserting therein after the first sentence and before the second sentence thereof the following sentence:

“In order to secure the attendance or representation by proxy of shareholders holding a sufficient number of shares at the meeting called for the purpose of approving the proposed dissolution of a corporation, due and diligent search for shareholders may be made by mailing the notice of the said meeting by registered mail to each stockholder at his latest address of record on the books of the corporation, and by publishing

notice of the meeting in some newspaper of general circulation published in the Territory at least once in each of two successive weeks (two publications) naming each shareholder of the corporation, and after such mailing and publication each shareholder who fails to attend said meeting and also fails to acknowledge said notice shall be deemed to have approved at said meeting the dissolution of the corporation."

Section 2. This Act shall take effect upon its approval.

(Approved May 20, 1941.) **S.B. 543, Act 313.**

CHAPTER 221A. MERGER AND CONSOLIDATION OF CORPORATIONS.

[D-208] An Act Relating to Merger and Consolidation of Corporations Amending Chapter 221-A of the Revised Laws of Hawaii 1935, as Enacted by Act 73 of the Session Laws of Hawaii 1937, Providing for the Merger or Consolidation of Domestic Corporations With Foreign Corporations.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 221-A of the Revised Laws of Hawaii 1935, as enacted by Act 73 of the Session Laws of Hawaii 1937, is hereby amended by adding two new sections thereto to be numbered sections 6764-F and 6764-G to read as follows:

"Sec. 6764-F. Merger or consolidation of domestic corporations with foreign corporations. Notwithstanding the provisions of section 6764-B, the merger or consolidation of any number of domestic corporations with any number of foreign corporations may be effected if such foreign corporations be authorized to effect such a merger or consolidation by the laws of the jurisdiction under which they are formed, provided however, that if the surviving or consolidated corporation shall be a foreign corporation no merger or consolidation agreement shall be effected as to any domestic corporations unless the authorization and approval shall have been obtained from the holders of not less than nine-tenths (9/10ths) of the issued and outstanding shares of each such domestic corporation even though their right to vote be otherwise restricted or denied by the charter, articles, by-laws or resolution of the domestic corporation.

“(1) **Law regulating.** In the merger or consolidation agreement, the laws of any jurisdiction under which one of the constituent corporations was organized may be selected as the laws which shall govern such merger or consolidation and the surviving or consolidated corporation, provided however, that the dissenting stockholders of any domestic corporation shall in any event have the right to have their compensation determined under the provisions of section 6764-D upon compliance with all of the terms and conditions of said section.

“(2) **Filing of agreement.** To become effective in the territory, the merger or consolidation agreement must be filed in the office of the treasurer in the manner required in section 6764-A, and if any domestic corporation, being a party to a merger or consolidation agreement, is a fiduciary company, or subject to examination of the bank examiner under any provisions of law, or a public utility company, before the agreement may be filed in the office of the treasurer, such agreement shall require the approval of the bank examiner or the public utilities commission in the same manner that it would be required if the merger or consolidation of such corporation were effected under this chapter.

“(3) **Effective merger or consolidation.** Upon the merger or consolidation becoming effective in the territory, the property and corporate existence of the domestic constituent corporations shall in all respects be subject to the provisions of paragraph (9) of section 6764-A.

“**Section 6764-G. Foreign surviving or consolidated corporation.** If the surviving or consolidated corporation is to be governed by the laws of any jurisdiction other than the territory, the treasurer shall not permit the filing of the agreement in his office unless there shall be filed therewith an agreement or agreements executed by the proper officers of each constituent company providing that a designated person residing within the territory may be served with legal notice and process from the courts of the territory or notices from officials of the territory in any proceeding for the enforcement of any obligation or duty of any domestic constituent corporation, including any suit brought by any dissenting stockholders pursuant to section 6764-E. If the person so named shall not be found within the territory, service shall be made upon the merged or consolidated corporation to enforce any such obligation or duty by filing with the treasurer of the territory, or in his absence, with the registrar of public accounts, a copy of notice of process authorized by law, by any magistrate, court, judi-

cial or administrative officer or board, in accordance with the provisions of section 6780.

"If such consolidated or surviving corporation undertakes to do or carry on any business in the territory or to take, hold, sell, demise or convey any real property or any other property therein, it shall within thirty (30) days after the filing of the merger or consolidation agreement, file in the office of the treasurer of the territory all documents required to be filed in and by the provisions of section 6770, and shall in all respects, be subject to the provisions of chapters 222 and 223."

Section 2. This Act shall take effect upon its approval.

(Approved May 20, 1941.) **H.B. 496, Act 309.**

CHAPTER 223A. INDUSTRIAL LOAN AND INVESTMENT ACT.

[D-209] An Act to Further Amend Chapter 223-A of the Revised Laws of Hawaii 1935, as Enacted by Act 231 of the Session Laws of Hawaii 1937, as Amended by Act 75 of the Session Laws of Hawaii 1939, by Amending Section 6782-M-1 Thereof, Relating to the Giving of Publicity to the Effective Interest Rate Charged by Industrial Loan Companies.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 223-A of the Revised Laws of Hawaii 1935, as enacted by Act 231 of the Session Laws of Hawaii 1937, as amended by Act 75 of the Session Laws of Hawaii 1939, is hereby further amended by amending **section 6782-M-1** thereof by adding at the end of said section two new paragraphs to read as follows:

"Every licensee shall during all business hours have prominently displayed in its office, located in such place and manner that all borrowers may be able clearly to read the same, a rate chart which shall set forth in such form as the bank examiner shall prescribe, the effective rate of interest per annum charged by the licensee for the borrowing of money.

Every promissory note taken or accepted by a licensee as evidence of a loan made to a borrower shall, prior to its acceptance by the licensee, have clearly set forth in the margin of such note or attached thereto in such form that the borrower

may clearly read the same at the time of execution of the note, a statement of the effective rate of interest per annum charged by the licensee for the loan evidenced by the note.”

Section 2. This Act shall take effect sixty (60) days after its approval.

(Approved May 8, 1941.) **S.B. 486, Act 182.**

CHAPTER 224. INSURANCE COMPANIES AND INSURANCE LAW.

[D-210] An Act to Amend Section 6800 of the Revised Laws of Hawaii 1935, as Amended, Relating to Insurance Companies.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Subsection 1 (k) of **section 6800** of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding at the end thereof, the following:

“The provisions of this section shall not apply to insurance companies organized under the laws of the Territory of Hawaii.”

Section 2. This Act shall take effect upon its approval.

(Approved April 24, 1941.) **S.B. 255, Act 101.**

[D-211] An Act to Amend Section 6805A, Revised Laws of Hawaii 1935, as Enacted by Act 263, Session Laws of Hawaii 1939, Relating to the Examination and Licensing of Insurance Solicitors.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Subsection 2 of **section 6805A**, Revised Laws of Hawaii 1935, as enacted by Act 263, Session Laws of Hawaii 1939, is hereby amended to read as follows:

“(2) That no solicitor shall be licensed to represent more

than one general agent or one subagent for the writing of the same lines of insurance; provided that no solicitor shall represent more than a total of two general agents; and provided further that the provisions of this subparagraph shall not apply to any person who holds a license as agent under the laws of the Territory at the time this section becomes effective."

Section 2. Subsection 3 of **section 6805A** of the Revised Laws of Hawaii 1935, as enacted by Act 263, Session Laws of Hawaii 1939, is hereby amended to read as follows:

"(3) That pending examination as herein provided or qualification in accordance with the provisions of subsection (4) hereof, the commissioner may issue a temporary license to an applicant to act as a general agent, subagent or solicitor, effective for a period not extending beyond ten days after the results of the next succeeding second examination are announced, if such applicant be otherwise qualified and be certified by an official, or licensed representative, of a company. No further such temporary license shall be issued to any person failing to pass such second examination or failing so to qualify."

Section 3. This Act shall take effect upon its approval.

(Approved May 3, 1941.) **S.B. 302, Act 156.**

[D-212] An Act to Amend Section 6819 of the Revised Laws of Hawaii 1935, as Amended by Act 165 of the Session Laws of Hawaii 1939 (Series D-162), Relating to Investments of Domestic Insurance Companies.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6819** of the Revised Laws of Hawaii 1935, as amended by Act 165 of the Session Laws of Hawaii 1939 (Series D-162), is hereby further amended by amending subsection 5 thereof by changing the period to a comma and adding the following:

"or in loans secured by life insurance policies up to the loan values of such policies."

Section 2. This Act shall take effect upon its approval.

(Approved May 14, 1941.) **S.B. 514, Act 245.**

[D-213] An Act Relating to the Powers of the Territorial Fire Marshal to Make Rules and Regulations, Amending the Law to Conform to This Act; and to Declare Null and Void All Ordinances Inconsistent Herewith.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 6839A.] Section 1. [Fire marshal, rules and regulations by.] Rules and regulations made by the territorial fire marshal with the approval of the governor as in section 6839, Revised Laws of Hawaii 1935, provided, shall be published in some newspaper of general circulation throughout the territory; provided, however, that the territorial fire marshal is hereby empowered and authorized to adopt by rules and regulations, with the approval of the governor, the conditions, provisions, limitations and terms of an electrical code, a storage of inflammables code, or any other standard code which contains conditions, provisions, limitations and terms printed as a code in book or pamphlet form, by reference to such code, or portions thereof, alone without setting forth in the said rules and regulations of the territorial fire marshal the conditions, provisions, limitations and terms of such code; and when such code, or portions thereof, shall have been incorporated by reference into any such rules and regulations of the fire marshal as aforesaid, it shall have the same force and effect of law as though it had been spread at large in such rules and regulations of the fire marshal without further or additional publication thereof; provided, however, that not less than three (3) copies of each such standard code, or portions thereof, shall have been filed for use and examination by the public in the office of the clerk of each county prior to the adoption thereof; and, provided further, that the adoption of any such standard code by reference shall be construed to incorporate such amendments thereto as may be made therein from time to time, if the three (3) copies of such standard code so filed shall at all times be kept current in the office of the clerk of such county.

Section 2. If any portion of this Act, or any of any other law as amended by this Act, or its application to any persons or circumstances, shall be held unconstitutional or invalid, the validity of the remainder of this Act or of said other law or the application of said portion to other persons and circumstances, shall not be affected.

Section 3. All territorial laws or parts of laws inconsistent with the provisions of this Act are hereby amended to conform to this Act.

Section 4. All ordinances of any county in conflict with this Act are hereby declared null and void.

Section 5. This Act shall take effect upon its approval.

(Approved May 8, 1941.) **H.B. 393, Act 176.**

MUTUAL AND FRATERNAL BENEFIT SOCIETIES.

[D-214] An Act to Amend Act 209, Series D-164, of the Session Laws of Hawaii 1939, Relating to Mutual and Fraternal Benefit Societies, by Amending the Second Paragraph of Section Numbered Sec. 6852-B in Section 1 of Said Act.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6852-B**, in Section 1 of Act 209, Series D-164, of the Session Laws of Hawaii 1939, is hereby amended by amending the second paragraph thereof to read as follows:

"Except as hereinafter provided, all regular payments received for account of death benefit or disability or other benefit funds, during the period of organization of such society, shall not be used for the payment of any expenses of such society, but shall be placed on deposit or in trust in some bank or trust company approved by the insurance commissioner, payable to such society but under the joint control of the insurance commissioner, which funds, in case the organization of the society is not completed within one year, shall be returned to the applicants or members who made payments of the respective amounts. If, however, the organization is completed and the insurance commissioner issues a certificate of compliance with the law, the funds so deposited in trust, together with interest, if any, shall be released in favor of the society by the insurance commissioner. After the organization of any such society is completed and a certificate of compliance with law is granted by the insurance commissioner, the society shall be governed by its administrative board or body in accordance with its constitution and by-laws, but, except as hereinafter provided for the first year, at no time shall such society, except an association or a society organized and operating solely as a nonprofit medical indemnity and/or hospital service association or society, use more than 15% of the payments up to \$100,000.00 and 7% of the payments in excess of \$100,000.00, received from its members or applicants in the form of admission fees, dues, contributions or assessments of any nature for expenses other than taxes, in connection with the man-

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agement or operation of such death benefit, or disability, or sick or other benefit funds; except that the commissioner may, for good cause shown to him, permit such expenses for the first year after registration to equal not more than 20% of payments up to \$100,000.00. Any commissions or other payments or allowances to persons soliciting membership in or making collections for the society shall be included in the foregoing expenditures and no part of any such commissions, payments or allowances may be in addition thereto; provided, however, that any such society which exacts a membership fee of its new members not in excess of \$5.00 for each membership may pay commissions or other payments to persons soliciting membership out of the fund created by such membership fees and the amounts so paid as commissions or as such other payments out of such fund shall not be considered as expenses within the meaning of this paragraph. Any association or society organized and operating solely as a non-profit medical indemnity and/or hospital service association or society may use for such expenses, in addition to taxes, not more than 35% of the payments received from its members or applicants in the form of admission fees, dues, contributions or assessments of any nature."

Section 2. This Act shall take effect upon its approval.

(Approved May 20, 1941.) **S.B. 369, Act 311.**

**CHAPTER 226. TRUST
COMPANIES.**

[D-215] An Act to Amend Section 6909 of the Revised Laws of Hawaii 1935, as Amended, Relating to Investments by Trust Companies.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Subdivision (a) of **section 6909** of the Revised Laws of Hawaii 1935, as heretofore amended, is hereby further amended by adding two new paragraphs at the end thereof, to be designated as paragraphs 10 and 11 and to read as follows:

"10. In common stock or in cumulative preferred stock, whether or not convertible, of any corporation which at the time of such investments is incorporated under the laws of the United States or of any state or territory thereof, or the District of Columbia, provided, however, that (a) such cor-

poration shall have been in continuous existence for a period of at least 15 years preceding the date of the investment, and (b) such corporation shall have paid a dividend on its common stock in each of the 10 years immediately preceding the investment.

11. In the purchase of certificates of deposit issued by any bank or in the deposit of funds on either demand or time in any savings bank or the savings department of any bank which has been designated as a depository by the treasurer of the Territory."

Section 2. This Act shall take effect upon its approval.

(Approved April 23, 1941.) **S.B. 199, Act 77.**

[D-216] An Act to Amend Sections 6909, 6924 and 6924A of the Revised Laws of Hawaii 1935, Making Shares and Investment Certificates of Associations, the Accounts of Which Are Insured by the Federal Savings and Loan Insurance Corporation, Legal Investments for Funds of Fiduciaries, Insurance Companies, Cemetery Associations, Banks and Other Financial Institutions, and Making Such Shares and Investment Certificates Legal for Use, at Face or Withdrawal Value, for Deposits, Designated Investments or Collateral Purposes, and Amending Other Laws to Conform Hereto.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 6909** of the Revised Laws of Hawaii 1935, as amended by Act 138, Series D-140, of the Session Laws of Hawaii 1935, by Act 43, Series D-145, and Act 50, Series D-146, of the Session Laws of Hawaii 1937, and by Act 81, Series D-166, and Act 94, Series D-167, of the Session Laws of Hawaii 1939, is hereby further amended by inserting after the word "only" in the 8th line of said section as the same appears on page 1050 of said Revised Laws, the words: "in securities which are specifically prescribed as legal investments for such trustees, guardians or agents by sections 6924 or 6924-A, or".

Section 2. Section 6924 of said Revised Laws, as enacted by Act 113 of the Session Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 6924. Legal investments. All shares issued by any federal savings and loan association shall be legal investments for the funds of executors, administrators, guardians, receiv-

ers and trustees of every kind and nature, and for the funds of all insurance companies, cemetery associations, banks, savings banks, trust companies or other financial institutions operating under the laws of this Territory; and such shares may be used at face value or withdrawal value wherever, by statute of this Territory or otherwise, deposits are required to be made with any public official or department, or an investment of capital or surplus, or a reserve or other fund, is required to be maintained consisting of designated security, or wherever, by statute of this Territory or otherwise, any surety, whether personal, corporate, or otherwise, or any collateral or security, is required or permitted for any purpose, including without limitation on the generality of the foregoing any bond, recognizance, or undertaking." [L. 1935, c. 113, s. 1; R. L. 1935, s. 6924; am. L. 1941, c. 320, s. 2.]

Section 3. Section 6924A of said Revised Laws, as enacted by Act 113 of the Session Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 6924A. Legal investments. All investment certificates of any building and loan association issuing investment certificates, and all shares of any association not issuing investment certificates, whose accounts are insured by the Federal Savings and Loan Insurance Corporation, as provided in Title IV of the 'National Housing Act', shall be legal investments for the funds of executors, administrators, guardians, receivers and trustees of every kind and nature, and for the funds of all insurance companies, cemetery associations, banks, savings banks, trust companies or other financial institutions operating under the laws of this Territory; and such investment certificates or shares may be used at face value or withdrawal value wherever, by statute of this Territory or otherwise, deposits are required to be made with any public official or department, or an investment of capital or surplus, or a reserve or other fund, is required to be maintained consisting of designated security, or wherever, by statute of this Territory or otherwise, any surety, whether personal, corporate, or otherwise, or any collateral or security, is required or permitted for any purpose, including without limitation on the generality of the foregoing any bond, recognizance, or undertaking." [L. 1935, c. 113, s. 2; R. L. 1935, s. 6924-A; am. L. 1941, c. 320, s. 3.]

Section 4. This Act shall take effect from and after the date of its approval, and any other statute which authorizes investments by trustees, guardians, corporations, or fiduciaries, by reference to said section 6909, shall be deemed to re-

fer to said section 6909 as amended by this Act and as the same may thereafter be amended from time to time, unless a contrary intent is clearly expressed therein.

(Approved May 21, 1941.) **S.B. 348, Act 320.**

CHAPTER 226A. LOANS AND INVESTMENTS: SPECIAL.

FEDERAL HOUSING.

[D-217] An Act to Amend Chapter 226-A of the Revised Laws of Hawaii 1935, as Enacted by Act 58 (Series D-147) of the Session Laws of Hawaii 1937, by Amending Section 6922 Thereof Relating to Loans by Banks, Building and Loan Associations, Insurance Companies, Trust Companies, Executors, Administrators, Guardians, Trustees and Other Fiduciaries.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 226-A of the Revised Laws of Hawaii 1935, as enacted by Act 58 of the Session Laws of Hawaii 1937 (Series D-147) is hereby amended by deleting from the ninth and tenth lines of the first paragraph of **section 6922** of said chapter the following: "pursuant to Title II of the Act of Congress, entitled 'National Housing Act'" and inserting in lieu thereof the following: "by the Federal Housing Administrator,".

Section 2. This Act shall take effect upon its approval.

(Approved April 18, 1941.) **H.B. 334, Act 47.**

H. O. L. C., FEDERAL HOME LOAN BANK, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION.

[D-218] An Act to Amend Sections 6923 and 6923A of the Revised Laws of Hawaii 1935, Authorizing the Investment in Bonds of the Home Owners' Loan Corporation, Bonds of Any Federal Home Loan Bank or Consolidated Federal Home Loan Bank Bonds, Notes or Debentures, and Obligations of the Federal Savings and Loan Insurance Corporation, by the Territory of Hawaii and All Its Departments and Political Subdivisions and Instrumentalities, and by Any Insurance Company, Building

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and Loan Association, or Bank or Trust Company or Other Financial Institution, and by Any Executor, Administrator, Guardian, Trustee or Fiduciary, and by Educational, Charitable or Eleemosynary Institutions, and Permitting the Use of Such Bonds, Notes, Debentures and Obligations, at Face Value, as Security by Any Depository of Public Funds.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 6923 of the Revised Laws of Hawaii 1935, as enacted by Act 112 of the Session Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 6923. Authority to invest. It shall be legal for this Territory and any of its political subdivisions, or any political or public corporation, including the Employees' Retirement System of the Territory of Hawaii or any instrumentality of the Territory, or any insurance company or building and loan association, or any savings bank or trust company, or any bank or other financial institution operating under the laws of this Territory, or for any executor, administrator, guardian, trustee or other fiduciary, or any educational, charitable, or eleemosynary institution, to invest their funds, or moneys in their custody, in the bonds of the Home Owners' Loan Corporation or in the bonds of any Federal Home Loan Bank or in consolidated Federal Home Loan Bank bonds, notes or debentures, or in obligations of the Federal Savings and Loan Insurance Corporation issued pursuant to Title IV of the National Housing Act, approved June 27, 1934, as now or hereafter amended." [L. 1935, c. 112, s. 1; R. L. s. 6923; am. L. 1941, c. 152, s. 1.]

Section 2. Section 6923A of the Revised Laws of Hawaii 1935, as enacted by Act 112 of the Session Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 6923A. Bonds, etc. may be used as security. Wherever by the terms of any general or special law depositories of public or other funds are required by law to give security therefor the bonds of any Federal Home Loan Bank or bonds of the Home Owners' Loan Corporation, or consolidated Federal Home Loan Bank bonds, notes or debentures, or obligations of the Federal Savings and Loan Insurance Corporation issued pursuant to Title IV of the National Housing Act, approved June 27, 1934, as now or hereafter amended, may be used at face value as security for any depository bonds or obligations wherein any kind of bonds or other security

are required or may by law be deposited as security." [L. 1935, c. 112, s. 2; R. L. 1935, s. 6923A; am. L. 1941, c. 152, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved May 3, 1941.) **S.B. 349, Act 152.**

**FEDERAL SAVINGS AND LOAN ASSOCIATION, BUILDING
AND LOAN ASSOCIATIONS INSURED UNDER NATIONAL
HOUSING ACT.**

[Sec. 6924. Investments. Amended by Act 320, supra, page 292.]

[Sec. 6924A. Investments. Amended by Act 320, supra, page 293.]

**Title XXV. BUSINESS
LAW AND
REGULATIONS.**

**CHAPTER 235. NEWSPAPERS,
REGULATION OF.**

**PART 2. FOREIGN LANGUAGE NEWSPAPERS AND
PUBLICATIONS.**

[D-219] An Act to Amend Sections 7280, 7281, 7282, 7285 and 7286 of the Revised Laws of Hawaii 1935, Relating to the Printing, Publishing, Circulating, Issuing, Distributing, and Filing of Newspapers, Publications, Articles or Matter Printed or Published in a Foreign Language.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 7280 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Section 7280. Foreign language newspapers; filing; where. Any person who shall publish in a foreign language any newspaper, or prints of like nature for the dissemination of news or information, unless required to file the same pursuant to the provisions of section 7282, shall file a full and true copy of each such newspaper or print with the custodian or librarian

of the public archives forthwith upon the publication thereof. Any language other than English and Hawaiian shall be deemed to be a foreign language." [L. 1921, c. 215, ss. 2, 10; R. L. 1935, s. 7280; am. L. 1941, c. 58, s. 1.]

Section 2. **Section 7281** of the Revised Laws of Hawaii 1935, is hereby amended by deleting the last five lines of said section and inserting in lieu thereof the following:

"such person shall in each case include therein a statement of the name or names and places of residence or business of the author or authors thereof, and of the publisher or publishers of the same, and, in addition, shall forthwith file a full and true copy thereof in the office of the attorney general, together with a true and correct English translation thereof, under the oath of its author or publisher."

Section 3. **Section 7282** of the Revised Laws of Hawaii 1935, is hereby amended by deleting the last two lines of said section and inserting in lieu thereof the following:

"in section 5600, he shall forthwith file a full and true copy thereof in the office of the attorney general, together with a true and correct English translation thereof, under the oath of its author or publisher."

Section 4. **Section 7285** of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 7285. Files of attorney general and public archives; how long to be preserved. It shall not be necessary for matter filed in the office of the attorney general or with the custodian or librarian of the public archives under this subtitle to be preserved for more than one year, and the attorney general or the custodian or librarian, as the case may be, may thereafter, at any time, in his discretion, destroy or otherwise dispose of the same." [L. 1921, c. 216, s. 7; R. L. 1935, s. 7285; am. L. 1941, c. 58, s. 4.]

Section 5. **Section 7286** of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

"Sec. 7286. Same; open to public inspection. All matters filed in the office of the attorney general or with the custodian or librarian of the public archives under sections 7280, 7281 or 7282 shall be open for public inspection." [L. 1921, c. 216, s. 8; R. L. 1935, s. 7286; am. L. 1941, c. 58, s. 5.]

Section 6. This Act shall take effect upon its approval.

(Approved April 21, 1941.) **H.B. 222, Act 58.**

CHAPTER 237. REAL ESTATE BROKERS AND SALESMEN.

[D-220] An Act to Amend Chapter 237 of the Revised Laws of Hawaii 1935, as Amended, Relating to Real Estate Brokers and Salesmen.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 237 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended in the following respects:

(1) By amending the third paragraph of **section 7310** of said chapter, defining "real estate broker", to read as follows:

" 'Real estate broker' shall mean and include any person, copartnership or corporation, who for compensation or a valuable consideration, sells or offers to sell, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, or who leases or offers to lease, or rents or offers to rent, any real estate, or the improvements thereon, for others, as a whole or partial vocation; or who secures, receives, takes or accepts, and sells or offers to sell, any option on real estate without the exercise by him of such option and for the purpose or as a means of evading the licensing requirement of this chapter."

(2) By amending the fourth paragraph of **section 7310** of said chapter, defining "real estate salesman", to read as follows:

" 'Real estate salesman' shall mean any person who, for a compensation or valuable consideration, is employed either directly or indirectly by a real estate broker to sell or offer to sell, buy or offer to buy, or negotiate the purchase or sale or exchange of real estate, or to lease or offer to lease, rent, or offer to rent, any real estate, or the improvements thereon, for others, as a whole or partial vocation; or who secures, receives, takes or accepts, and sells or offers to sell, any option on real estate without the exercise by him of such option and for the purpose or as a means of evading the licensing requirement of this chapter."

(3) By adding to **section 7311** of said chapter a new paragraph numbered 3, which shall read as follows:

"3. To any person who leases, offers to lease, rents or offers to rent any real estate or the improvements thereon of which he is the custodian or caretaker."

(4) By adding to **section 7316** of said chapter two new paragraphs numbered 5 and 6, to read as follows:

"5. To any person for a license unless such person has been

a resident of the Territory for at least two years prior to such issuance.

6. To any person as a broker unless he shall have had one year's experience as a licensed salesman in the Territory."

Section 2. This Act shall take effect upon its approval.

(Approved May 10, 1941.) S.B. 324, Act 205.

CHAPTER 240A. SALES, REALTY.

[D-221] An Act Concerning the Risk of Loss After a Contract to Sell Realty and to Make Uniform the Law With Reference Thereto.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 7436.] Section 1. **Risk of loss.** Any contract hereafter made in this Territory for the purchase and sale of realty shall be interpreted as including an agreement that the parties shall have the following rights and duties, unless the contract expressly provides otherwise:

(a) If, when neither the legal title nor the possession of the subject matter of the contract has been transferred, all or a material part thereof is destroyed without fault of the purchaser or is taken by eminent domain, the vendor cannot enforce the contract, and the purchaser is entitled to recover any portion of the price that he has paid;

(b) If, when either the legal title or the possession of the subject matter of the contract has been transferred, all or any part thereof is destroyed without fault of the vendor or is taken by eminent domain, the purchaser is not thereby relieved from a duty to pay the price, nor is he entitled to recover any portion thereof that he has paid.

[Sec. 7436.01.] Section 2. **Uniformity of interpretation.** This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states and territories which enact it.

[Sec. 7436.02.] Section 3. **Short title.** This Act may be cited as the Uniform Vendor and Purchaser Risk Act.

Section 4. **Repeal.** All acts or parts of acts inconsistent with this Act are hereby repealed.

Section 5. **Time of taking effect.** This Act shall take effect upon its approval.

(Approved April 25, 1941.) S.B. 462, Act 109.

**CHAPTER 242. TRADE MARKS,
PRINTS AND LABELS,
REGISTRATION AND
PROTECTION OF.**

[D-222] An Act to Amend Chapter 242 of the Revised Laws of Hawaii 1935, Relating to Prints, Labels, Trade Marks and Trade Names and the Registration and Protection Thereof, by Adding Two New Sections to Said Chapter 242, to be Designated as Section 7456-A and Section 7456-B.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 242 of the Revised Laws of Hawaii 1935, relating to prints, labels, trade marks and trade names and the registration and protection thereof, is hereby amended by adding two new sections to said chapter 242, to be designated as section 7456-A and section 7456-B and to read as follows:

“Sec. 7456-A. Cancellation of Certificate. Any person or persons claiming to be the owner or owners of a print, label, trade mark or trade name for which a certificate of registration pursuant to this chapter has been issued to any other person or persons may file in the office of the treasurer of the territory an application for the cancellation of the registration of such print, label, trade mark or trade name, with a declaration verified by the oath of such applicant or applicants, or if such application be made by a firm or corporation by the oath of a member of such firm or an officer of such corporation, setting forth facts in support of the ownership by such applicant or applicants of such print, label, trade mark or trade name and in support of the claim of such applicant or applicants that such certificate of registration should be cancelled. The treasurer of the territory shall give notice of such application for cancellation to the person or persons to whom the certificate of registration for the print, label, trade mark or trade name has been issued and, after granting an opportunity for hearing to the applicant or applicants for such cancellation and to the person or persons to whom the certificate of registration has been issued, shall grant or deny the application for cancellation, as the facts shall warrant.

“Sec. 7456-B. Appeal. Any person aggrieved by any action of the treasurer of the territory under this chapter in issuing a certificate of registration of a print, label, trade

mark or trade name or in revoking any such certificate of registration or in cancelling any such certificate of registration, or in denying an application may, within sixty days after such action by the treasurer of the territory, or in the event no order has been entered either granting or denying the application within four months after the filing of such application, commence proceedings to obtain judicial review thereof by a judge of the circuit court of the first judicial circuit, at chambers, by filing in said court a petition for such review. The trial by the circuit judge of any such proceeding shall be de novo. Proceedings for review by the supreme court may be had and taken in the same manner as is provided for a review of an order or decree of a circuit judge at chambers."

Section 2. This Act shall take effect upon its approval.

(Approved April 23, 1941.) **H.B. 268, Act 75.**

BOTTLES AND SIPHONS.

[D-223] An Act to Amend Sections 7457 and 7458 of the Revised Laws of Hawaii 1935, Relating to the Registration of Name, Title, or Other Mark or Device on Bottles, etc., and the Unlawful Traffic in the Same.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 7457 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 7457. Registration of name, title, or other mark or device on bottles, siphons, tins, kegs, or other containers. Any person engaged in manufacturing, bottling, selling or distributing soda water, mineral or aerated water, porter, ale, beer, cider, ginger ale, milk, cream, or other beverages or mixtures in bottles, siphons, tins, kegs, or other containers with his name, title, or other mark or device branded, stamped, engraved, or etched, blown, impressed, or otherwise produced in or on such bottles, siphons, tins, kegs, or other containers used by him, may file in the office of the treasurer of the Territory a description of the name, title, or other mark or device so used by him, and cause such description to be printed at least once in each week for two weeks successively in a newspaper published in the English language in the county or city and county where such manufacturing, bottling, selling, or

distributing takes place or in some paper of general circulation published in the English language in Honolulu; whereupon, such name, title, or other mark or device shall be deemed registered. [L. 1907, c. 101, s. 1; R. L. 1935, s. 7457; am. L. 1941, c. 92, s. 1.]

Section 2. Section 7458 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

“Sec. 7458. Unlawful traffic in bottles, etc., registered under section 7457; penalty. It shall be unlawful for any person, other than the owner, to sell, buy, distribute, or otherwise dispose of or traffic in any bottles, siphons, tins, kegs, or other containers marked or distinguished with any name, title, or other mark or device of which a description shall have been filed and published as provided in section 7457, without the written consent of the person whose name, title, or other mark or device is in or on such bottles, siphons, tins, kegs, or other containers. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than three days, or by both fine and imprisonment.” [L. 1907, c. 101, s. 2; R. L. 1935, s. 7458; am. L. 1941, c. 92, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved April 23, 1941.) **S.B. 378, Act 92.**

[D-224] An Act to Amend Section 7459 of the Revised Laws of Hawaii 1935, as Amended by Act 104, Session Laws of Hawaii 1935, Relating to the Unlawful Use of Milk Bottles, etc.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 7459 of the Revised Laws of Hawaii 1935, as amended by Act 104 (Series D-150) Session Laws of Hawaii 1935, is hereby further amended to read as follows:

“Sec. 7459. Unlawful use of milk bottles, etc.; penalty. It shall be unlawful for any person to use in the sale, offer for sale, exchange or delivery of milk or cream or their products, or any other products, any bottle, jar, can, or other container upon which is branded, stamped, engraved, or etched, blown, impressed, or otherwise produced the name, title, or other

mark or device of another person without the permission or consent of such other person. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or by imprisonment for not more than three days, or by both fine and imprisonment." [L. 1923, c. 168, ss. 1-2; R. L. 1935, s. 7459; am. L. 1941, c. 89, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved April 23, 1941.) **S.B. 377, Act 89.**

CHAPTER 242B. UNFAIR PRACTICES ACT.

[D-225] An Act to Amend Act 223 of the Session Laws of Hawaii 1937, Entitled "An Act Relating to Unfair Competition and Discrimination, Making Certain Unfair and Discriminatory Practices Unlawful, Defining the Duties of the Attorney General in Regard Thereto, Declaring Certain Contracts Illegal and Forbidding Recovery Thereon, Providing for Actions to Enjoin Unfair Competition and Discrimination and to Recover Damages Therefor, Making the Violations of the Provisions of This Act a Misdemeanor and Providing Penalties, and Appropriating Funds for the Enforcement Thereof."

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1 of Act 223 of the Session Laws of Hawaii 1937 is hereby amended to read as follows:

[Sec. 7459AA.] "Sec. 1. **Unlawful practices.** It shall be unlawful for any person, firm, or corporation, doing business in the Territory of Hawaii and engaged in the production, manufacture, distribution or sale of any commodity, or product, or service or output of a service trade, of general use of consumption, or the product or service of any public utility, with the intent to destroy the competition of any regular established dealer in such commodity, product or service, or to prevent the competition of any person, firm, private corporation, or municipal or other public corporation, who or which in good faith, intends and attempts to become such dealer, to discriminate be-

tween different sections, communities or cities or portions thereof, or between different locations in such sections, communities, cities, or portions thereof in this territory, by selling or furnishing such commodity, product, or services at a lower rate in one section, community, or city, or any portion thereof, or in one location in such section, community, or city or any portion thereof, than in another after making allowance for difference, if any, in the grade or quality, quantity and in the actual cost of transportation from the point of production, if a raw product or a commodity, or from the point of manufacture if a manufactured product or commodity, and in the overhead cost. Motion picture films when delivered under a lease to motion picture houses shall not be deemed to be a commodity or product of general use, or consumption, under this Act. This Act shall not be construed to prohibit the meeting in good faith of the rates of a competitor as herein defined, selling the same article or product, or service or output of a service trade in the same locality of trade area, or to prevent a reasonable classification of service by public utilities for the purpose of establishing rates. The inhibition hereof against locality discrimination shall embrace any scheme of special rebates, collateral contracts or any device of any nature whereby such discrimination is, in substance or fact, effected in violation of the spirit and intent of this Act."

Section 2. Section 6 of Act 223 of the Session Laws of Hawaii 1937 is hereby amended to read as follows:

[Sec. 7459AF.] "Sec. 6. **When sale at less than cost permitted.** The provisions of sections 3, 4 and 5 shall not apply to any sale made:

(a) In closing out in good faith the owner's stock or any part thereof for the purpose of discontinuing his trade in any such stock or commodity, and in the case of the sale of seasonal goods, or to the bona fide sale of perishable goods to prevent loss to the vendor by spoilage or depreciation, provided notice is given to the public thereof;

(b) When the goods are damaged or deteriorated in quality, and the notice is given to the public thereof;

(c) By an officer acting under the orders of any court;

(d) In an endeavor made in good faith to meet the prices of a competitor as herein defined selling the same article or product, or service or output of a service trade, in the same locality or trade area;

(e) By the government or any agency thereof, of the United States, the Territory of Hawaii or any county, or by

post exchanges or ships' service stores operating under and in accordance with U. S. army or naval regulations.

Provided, however, that in case of any sale at less than cost which does not fall within the provisions of (a) to (e), inclusive, of this section, the burden of proof shall be on the defendant to show that such sale was not made for the purpose of injuring competitors and destroying competition within the meaning of this Act.

Any person, firm or corporation who performs work upon, renovates, alters or improves any personal property belonging to another person, firm or corporation, shall be construed to be a vendor within the meaning of this Act." [L. 1937, c. 223; s. 6; R. L. 1935, s. 7459AF; am. L. 1941, c. 175, s. 2.]

Section 3. Section 7 of Act 223 of the Session Laws of Hawaii 1937 is hereby amended to read as follows:

[Sec. 7459AG.] "Sec. 7. **Rebates, refunds, etc.** The payment or allowance of rebates, refunds, commissions, or unearned discounts whether in the form of money or otherwise or extending to certain purchasers, special services, or privileges not extended to all purchasers purchasing upon like terms and conditions, to the injury of a competitor and where such payment or allowance tends to destroy competition, is an unfair trade practice and any person, firm, or corporation resorting to such trade practice shall be deemed guilty of a misdemeanor and on conviction thereof shall be subject to the penalties set out in section 11 of this Act; provided, however, that this section shall not apply to dealings between a principal and agent under the terms of a bona fide agency contract, nor to sales by an employer to his bona fide employees of any articles which is part of the stock." [L. 1937, c. 223, s. 7; R. L. 1935, s. 7459AG; am. L. 1941, c. 175, s. 3.]

Section 4. This Act shall take effect upon its approval.

(Approved May 8, 1941.) **H.B. 226, Act 175.**

**CHAPTER 242C. UNFAIR
PRACTICES,
PERISHABLE AGRICULTURAL COMMODITIES.**

[D-226] An Act to Prevent Unfair and Fraudulent Practices in the Marketing of Perishable Agricultural Commodities.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 7459CA.] Section 1. [Definitions.] The term "perishable agricultural commodity" means any of the following, whether or not the same are frozen or packed in ice: eggs, fresh fruits and fresh vegetables of every kind and character.

The term "commission merchant" means any person, firm, or corporation engaged in the business of receiving any perishable agricultural commodity for sale on commission for or on behalf of another.

[Sec. 7459CB.] Section 2. [Unlawful practices.] It shall be unlawful in or in connection with any transaction involving the marketing of perishable agricultural commodities received for sale on commission for or on behalf of another:

(1) For any commission merchant to make any fraudulent charge in respect of any such commodity;

(2) For any commission merchant to discard, dump, or destroy without reasonable cause any such commodity;

(3) For any commission merchant to make for a fraudulent purpose any false or misleading statement in connection with any transaction involving such commodity so consigned to him, or to fail or refuse truly and correctly to account promptly in respect of any transaction by him in any such commodity to the person with whom such transaction is had;

(4) For any commission merchant for a fraudulent purpose, to misrepresent by word, mark, stencil, label, statement, or deed, the character, kind, grade, quality, condition, or degree of maturity of any such commodity so received by him;

(5) For any commission merchant to purchase for his own account without the consent of the consignor any such commodity received for the account of the consignor.

[Sec. 7459CC.] Section 3. [Records to be kept.] Every commission merchant, having received any perishable agricultural commodity for sale on commission for or on behalf of another, shall promptly make and keep a correct record showing in detail the following with reference to the handling,

storage or sale of such commodity: (a) the name and address of the consignor; (b) the date of receipt of the commodity; (c) the date of any sale for account of consignor; (d) the price for which such commodity was sold; (e) an itemized statement of the charges to be paid by the consignor in connection with such handling, storage and sale, including any freight charges.

Every such commission merchant shall retain and preserve for a period of two (2) years from the date thereof, the accounts, records and memoranda required by this Act, which copy shall be open at all times to the confidential inspection of the board of commissioners of agriculture and forestry and the consignor, or the duly authorized representative of either.

[Sec. 7459CD.] Section 4. [Accounting and payments to be made.] Every commission merchant shall make a full accounting and payment to the consignor within fifteen (15) days after the day on which the final sale shall have been made of any lot of produce so received from the consignor.

[Sec. 7459CE.] Section 5. [Rules and regulations.] The board of commissioners of agriculture and forestry of the Territory of Hawaii shall have authority to promulgate, in the manner provided by section 154 of the Revised Laws of Hawaii 1935, and enforce all necessary rules and regulations for the proper enforcement of this Act, including the form or forms of accounting to be made by commission merchants hereunder. Such rules and regulations, when approved by the governor, shall have the force and effect of law.

[Sec. 7459CF.] Section 6. [Penalty.] Any person violating any provision of this Act or of said rules and regulations shall be guilty of a misdemeanor and upon conviction thereof shall be liable to a penalty of not more than five hundred dollars (\$500.00) for each such offense, and in addition thereto shall be liable to anyone injured by such violation for the full amount of damages sustained in consequence thereof; but this section shall in no way abridge or alter any remedies that may exist at common law or by statute, and the provisions of this Act are in addition to such remedies.

Section 7. This Act shall take effect upon its approval.

(Approved May 19, 1941.) H.B. 432, Act 280.

CHAPTER 244. WAGES; EMPLOYERS AND EMPLOYEES.

[D-227] An Act Relating to Payment of Wages Upon Termination of Employment.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 7473.] Section 1. [Wages to be paid when.] The earned wages of all employees discharged by the employer either with or without cause shall be immediately due and payable upon discharge. If an employee leaves his employment voluntarily, his earned wages shall be due and payable on the next regular pay day. Where work is suspended as a result of a labor dispute, the wages of all employees earned to the date of such suspension shall become due and payable at the next regular pay day.

[Sec. 7474.] Section 2. [Payment when amount disputed.] In case of a dispute over wages resulting in, or existing at the time of, termination of employment, the employer shall give notice to the employees of the amount of wages which he concedes to be due and the same shall be payable without any conditions whatsoever at the time fixed by section 1 of this Act, and the acceptance by the employees of such payment shall not constitute a release or accord and satisfaction with respect to the disputed amount.

Section 3. This Act shall take effect upon its approval.

(Approved April 25, 1941.) S.B. 277, Act 105.

CHAPTER 245. WORKMEN'S COMPENSATION LAW.

[D-228] An Act to Amend Chapter 245 of the Revised Laws of Hawaii 1935, as Amended, Relating to Workmen's Compensation.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 245 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending the first paragraph of section 7486 thereof to read as follows:

"Sec. 7486. Death benefits. If death results from the in-

jury within one year, the employer or the insurance carrier shall pay to the persons entitled to compensation or, if there be none, then to the personal representative of the deceased employee, burial expenses not to exceed one hundred fifty dollars (\$150.00); and shall also pay to or for the following persons for the following periods a weekly compensation equal to the percentages of the deceased employee's average weekly wages as defined in section 7495."

Section 2. Chapter 245 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending the fourth paragraph of **section 7491** thereof to read as follows:

"If it shall appear to the director that the injured employee has wilfully refused to accept the services of a competent physician or surgeon, or has wilfully refused the medical, surgical or hospital services or supplies provided by the employer, or has wilfully obstructed the said physician or surgeon or medical, surgical or hospital services or supplies, the director may in his discretion construe such refusal or obstruction on the part of the employee to be a waiver by him in whole or in part of his right to medical, surgical, and hospital services and supplies, and may in his discretion suspend the weekly compensation, if any, to which such employee is entitled so long as such refusal or obstruction continues."

Section 3. Chapter 245 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by amending section 7528 thereof to read as follows:

"Sec. 7528. Failure to give security for compensation; penalty; injunction. If an employer fails to comply with the provisions of section 7526 he shall be liable to a penalty in the sum of not less than one hundred dollars (\$100.00) or of one dollar (\$1.00) for each employee for every day during which such failure continues, whichever sum is greater, to be recovered in an action brought by the director in the name of the Territory, and the amount so collected shall be paid into the territorial treasury and be a special fund for the use of the bureau. The director may, however, in his discretion, for good cause shown, remit all or any part of such penalty in excess of one hundred dollars (\$100.00), provided the employer in default forthwith complies with said section 7526. With respect to such actions, it shall be the duty of the attorney general of the Territory of Hawaii or any county or city and county attorney or public prosecutor to prosecute the same if so requested by the director.

Furthermore, if any employer shall be in default under sec-

tion 7526, for a period of thirty days, he may be enjoined by the circuit court of the circuit in which his principal place of business is from carrying on his business any place in the Territory so long as the default continues, such action for injunction to be prosecuted by the attorney general of the Territory of Hawaii, or any county or city and county attorney if so requested by the director." [L. 1915, c. 221, s. 48; R. L. 1935, s. 7528; am. L. 1939, c. 237, pt. of s. 3; am. L. 1941, c. 253, s. 3.]

Section 4. This Act shall take effect upon its approval.

(Approved May 14, 1941.) **S.B. 278, Act 253.**

Title XXVI. MISCELLANEOUS TERRITORIAL PROVISIONS.

CHAPTER 250. ELECTIONS: GENERAL.

REGISTRATION OF VOTERS.

[D-229] An Act to Amend Section 7655 of the Revised Laws of Hawaii 1935, Relating to Registration of Voters.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 7655 of the Revised Laws of Hawaii 1935 is hereby amended to read as follows:

"Sec. 7655. Closing register; list of electors. At midnight immediately preceding the third Wednesday before each general election, and at midnight immediately preceding the fifth Friday before each special or primary election, the general county register shall be closed to registration and remain closed until after such election, subject to change only as provided in section 7648. Immediately upon the closing of the general county register, the clerk shall proceed to prepare a list of all electors in each precinct, separately. Such list shall contain, in alphabetical order, without designation of the race or age of electors, the names of all electors so registered in each precinct, and the residence of each. At least three copies of such lists, when completed, shall, at least five days before the date of any election, be transmitted by the clerk to the

inspectors of election of the appropriate precincts." [L. 1911, c. 68, s. 8; am. L. 1911, c. 105, s. 3; am. L. 1919, c. 99, s. 4; am. L. 1923, c. 31, s. 1; am. L. 1927, c. 49, s. 1; am. imp. L. 1927, c. 89, s. 1; am. L. 1929, c. 177, s. 4; R. L. 1935, s. 7655; am. L. 1941, c. 256, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 14, 1941.) **S.B. 558, Act 256.**

CONDUCT OF ELECTION, VOTING, ETC.

[Sec. 7684. Amended by section 2 of following Act.]

VOTING BY ABSENTEES.

[D-230] An Act to Amend Chapter 250 of the Revised Laws of Hawaii 1935, as Amended, Relating to Voting by Registered Voters of the Territory of Hawaii While on Military Service Within the Territory of Hawaii and Absent from the Precinct in Which They Are Registered.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 7696** of the Revised Laws of Hawaii 1935, is hereby amended in the following respects:

(a) By amending subsection 1 thereof to read as follows:

"1. No registered voter who is in the territory shall be deprived of his right to vote at any primary, county, special, or general election by reason of his absence from the precinct in which he otherwise would have the right to vote, provided such absence at the time such election is held is caused by being engaged in military service. The term 'military service', as used in this section, shall mean service of the territory or the United States by virtue of orders issued by either the governor of the territory, or the President of the United States of America, or otherwise, including active service with the national guard, training at camps of instruction or field maneuvers of the national guard, service on active duty with any branch of the armed forces of the United States and training or instruction under the supervision of the United States preliminary to induction into active service."

(b) By amending subsection 2 thereof to read as follows:

"2. In order to carry into effect the provisions of this section, the governor shall designate such places within the territory as may be appropriate for such purpose to be polling places, and all places so designated, are, for the purposes of any

primary, county, special, or general elections, declared to be polling places within the meaning of all laws of the territory relative to elections; and in determining the result of any given election, all votes cast for candidates at such election, in the manner hereinafter authorized, shall be counted notwithstanding the fact that the registered voters casting such votes may have cast them at a precinct or place other than that in which they may be registered."

(c) By amending subsection 3 thereof to read as follows:

"3. Whenever registered voters of the territory are engaged in military service in the territory, it shall be the duty of the governor, in so far as practicable, to ascertain the places at which such persons at the date of any primary, county, special or general election provided for by the laws of the territory will be stationed. It shall be the further duty of the governor, upon the ascertainment of the facts, to appoint three or more special inspectors of election for each polling place designated by him pursuant to subsection 2 of this section. The special inspectors of election thus appointed by the governor, shall be appointed in the manner provided by the general election laws for the appointment of regular inspectors of election, except that the inspectors may be appointed at any time, and shall be appointed for each such election. Such special inspectors shall possess, in so far as practicable, the same qualifications as provided by law for the regular inspectors of election. The special inspectors thus appointed shall possess, and are vested with, all of the powers provided by law for the regular inspectors of election; provided, however, that each board of such special inspectors of election may, with the approval of the governor, appoint one or more special election clerks, who shall be registered voters, to assist them properly to perform their duties. For each election, the special inspectors of election, other than the chairman, shall be paid the sum of twenty dollars each, the chairman of each board shall be paid the sum of twenty-five dollars and the special election clerks shall be paid the sum of fifteen dollars each, which sums shall be paid by the territory or by the counties as provided by law in the case of regular inspectors and clerks of election."

(d) By amending subsection 4 thereof to read as follows:

"4. It shall be the duty, insofar as practicable, of the adjutant general of the territory to transmit to the clerk of each county at least fifteen days prior to the time when any primary, county, special, or general election is to be held, lists of names of persons who are engaged in military service and stationed within the territory and who are, or may be registered voters in such county; and also full information as

to the voting precincts and districts of such persons, and the places where such persons will probably be stationed at the date of such election."

(e) By amending subsection 5 thereof to read as follows:

"5. It shall be the duty of the board of supervisors of the various counties to provide temporary election booths for such elections for all places within the county where polling places are established under the provisions of this section."

(f) By amending subsection 6 thereof to read as follows:

"6. Upon the receipt of the lists of names of persons in military service from the adjutant general as provided by subsection 4 of this section, each county clerk shall ascertain which of the persons whose names appear on such lists are eligible to vote at such election within the county, and shall, not later than five days before such election is to be held, transmit to the special inspectors of election appointed under the provisions hereof, official lists of registered electors of the county who are in military service and whose names appear on the lists transmitted to the county clerk by the adjutant general, the lists to contain the names of such registered electors together with their places of residence and precinct and district in which they reside, as shown by the great register, and which lists shall contain certificates that the same contain the names of all duly registered electors of the county whose names appear on the lists transmitted to the county clerk by the adjutant general. All persons whose names appear on such official lists shall be entitled to vote at such election at the polling places established for the casting of their ballots. Upon the receipt of such official lists of registered electors, the special inspectors of election shall forthwith post the same at the polling places. Any registered elector of the territory in military service within the territory, notwithstanding the fact that his name does not appear on such official lists of registered electors, shall be entitled to vote at such polling place; provided, however, that he shall notify in writing the secretary of the territory or the clerk of the county in which he is registered, not later than two days before the day of the election, of his intention to vote, whereupon the secretary or the county clerk so notified shall ascertain whether he is eligible to vote and shall notify the special inspectors of election of his eligibility to vote. No person other than a registered voter of the territory in military service within the territory whose name appears on such official lists, or who gives due notice of his intention to vote and is ascertained to be eligible to vote as herein provided, shall be entitled or permitted to vote under the provisions of this section."

(g) By amending subsection 7 thereof by inserting before the word “and” in the second, fifth and eighth lines of said subsection the following: “specimen ballots, cards of instruction,”.

(h) By amending subsection 9 thereof by inserting before the word “county” in the first line of said subsection the words “secretary of the territory or”, and by inserting after the word “clerk” in said first line the following: “, as may be required by law,”.

(i) By amending subsection 10 thereof by substituting for the words “called into and reporting for” in the first line of said subsection the words “engaged in military”, and by substituting for the words “mobilization grounds” in the sixth line of said subsection the words “place where he is stationed”.

Section 2. Section 7684 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

“**Sec. 7684. Uniforms at polls.** No person in military service shall go to any polling place for any purpose in uniform, unless he is a registered voter of the territory; nor shall any military or other organization march or go to the polling place in a body.” [C. L. p. 813, s. 82; am. L. 1917, c. 197, s. 12; R. L. 1935, s. 7684; am. L. 1941, c. 324, s. 2.]

Section 3. This Act shall take effect upon its approval.

(Approved May 21, 1941.) **S.B. 520, Act 324.**

CHAPTER 253. FARM LOANS.

[D-231] An Act Amending Section 7761 of the Revised Laws of Hawaii 1935, Relating to the Farm Loan Board of Hawaii.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 7761** of the Revised Laws of Hawaii 1935, is hereby amended by deleting from the second paragraph thereof the last sentence.

Section 2. This Act shall take effect upon July 1, 1941.

(Approved May 6, 1941.) **H.B. 78, Act 164.**

CHAPTER 254A. DEPARTMENT OF INSTITUTIONS.

[D-232] An Act Amending Chapters 254A and 32 of the Revised Laws of Hawaii 1935, Relating to the Department of Institutions and the Director Thereof; Placing Waimano Home in or Under the Department of Institutions; Providing for the Administration, Maintenance and Control of the Said Waimano Home as a Part of the Said Department and, as Such Part, for Admissions or Commitments Thereto, Detentions or Confinements Therein, and Releases or Paroles Therefrom; Conferring Certain Powers or Rights and Imposing Certain Duties or Liabilities Upon the Director of Institutions or the Psychiatric Commission; Abolishing the Board of Commissioners for Waimano Home; and Repealing All Laws or Parts of Laws Inconsistent Therewith.

Whereas, Act 203 of the Session Laws of Hawaii 1939, created the department of institutions and contained provisions, among others, purporting to abolish the board of commissioners for Waimano Home, to transfer the administration, management and control of the said home to the department of institutions and to amend the laws of Hawaii relating to the said home; and

Whereas, through inadvertence the said provisions in respect to Waimano Home were not expressed in the title of said Act 203 and, as a result, the said provisions, relating to the said home in said Act 203, were held to be legally ineffective; and

Whereas, it is desirable that the administration, management and control of the said Waimano Home be now transferred to the department of institutions and that the said provisions be effectually enacted; now, therefore,

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 7772.1 of chapter 254A of the Revised Laws of Hawaii 1935, as enacted by Act 203 of the Session Laws of Hawaii 1939, is hereby amended to read as follows:

“Sec. 7772.1. Definitions. Wherever used in this chapter or in any of chapters 32, 41, 132 and 217, unless the context clearly otherwise indicates:

1. ‘Director’ means the director of institutions appointed pursuant to this chapter.

2. 'Department' means the department of institutions.

3. 'Institutions' means Waimano Home, the Territorial Hospital, Waialeale Training School for Boys, Kawaihoa Training School for Girls, Oahu Prison and other territorial prisons, and all other territorial institutions which are now or may hereafter be placed under the administration of the department of institutions.

4. 'Act 203' means Act 203 of the Session Laws of Hawaii 1939." [L. 1939, c. 203, pt. of s. 1; R. L. 1935, s. 7772.1; am. L. 1941, c. 5, s. 1.]

Section 2. Section 7772.2 of chapter 254A of the Revised Laws of Hawaii 1935, as enacted by Act 203 of the Session Laws of Hawaii 1939, is hereby amended to read as follows:

"Sec. 7772.2. Certain existing boards abolished; certain institutions, functions, rights, liabilities, etc., transferred to department of institutions; general powers, duties of director; deputies, assistants, etc. The board of commissioners for Waimano Home, and the board of industrial schools, provided for, respectively, by chapters 32 and 132, are hereby abolished.

Subject to the civil service act and to any special provisions of law applicable to any such institution, the director may appoint an assistant for, and to be in immediate supervision of, each institution heretofore under the jurisdiction of the board of commissioners for Waimano Home, the board of industrial schools or the board of prison directors, and the territorial hospital respectively, together with such other assistants, and such clerical, stenographic and other help as may be necessary for the proper performance of the duties of the department.

Compensation of all said appointees of the director shall be as fixed by law. The director shall require such of the aforesaid appointees as he deems necessary to furnish bond in such amounts as he may prescribe.

Except as otherwise provided by Act 203 all rights, powers, functions, duties and liabilities of, or held, possessed or exercised by, or imposed upon (a) any of the boards mentioned in this section, except the board of commissioners for Waimano Home, with relation to the institutions, persons, and any matters, under their jurisdiction, or (b) the board of health of the Territory with relation to the territorial hospital and any matters covered by chapter 41, prior to the effective date of Act 203, are hereby transferred to the director, who shall, except as otherwise provided by law, have, exercise and be subject to the same rights, powers, functions, duties and liabilities with respect to the said respective institutions,

persons and matters, as were, prior to the effective date of said Act 203, held, possessed or exercised by, or imposed upon, the said respective boards with respect to said institutions, persons and matters under their respective jurisdictions.

Except as otherwise provided by statute, all rights, powers, functions, duties and liabilities of, or held, possessed or exercised by, or imposed upon the board of commissioners for Waimano Home with relation to the institution, persons, and any matters, under its jurisdiction, prior to July 1, 1941, are hereby transferred to the director, who shall, except as otherwise provided by law, have, exercise and be subject to the same rights, powers, functions, duties and liabilities with respect to the said institution, persons and matters as were, prior to July 1, 1941, held, possessed or exercised by, or imposed upon, the said board of commissioners for Waimano Home with respect to said institution, persons and matters under its jurisdiction." [L. 1939, c. 203, pt. of s. 1; R. L. 1935, s. 7772.2; am. L. 1941, c. 5, s. 2.]

Section 3. Section 7772.4 of chapter 254A of the Revised Laws of Hawaii 1935, as enacted by Act 203 of the Session Laws of Hawaii 1939, is hereby amended to read as follows:

"Sec. 7772.4. Rules, forms; approval by governor. Whenever in this chapter or in any of said chapters 32, 41, 132 and 217, the director is authorized to promulgate rules, or to prescribe forms, the same shall, in order to be effective, be approved by the governor." [L. 1939, c. 203, pt. of s. 1; R. L. 1935, s. 7772.4; am. L. 1941, c. 5, s. 3.]

[Sec. 7772.6. See following Act.]

Section 4. Chapter 32 of the Revised Laws of Hawaii 1935, is hereby amended:

1. By amending Section 1030 thereof to read as follows:

"Sec. 1030. Home for feeble-minded. The territorial institution for the feeble-minded shall be known as 'Waimano Home'. All rights intended to be secured to the home for feeble-minded as to the use of land, appropriations, etc., shall be unaffected by the designation of the home as the 'Waimano Home.'" [L. 1919, c. 102, s. 1; am. L. 1923, c. 94, s. 1; R. L. 1935, s. 1030; am. L. 1939, c. 203, pt. of 3-a; am. L. 1941, c. 5, pt. of s. 4.]

2. By amending Section 1031 thereof to read as follows:

"Sec. 1031. Home conducted by director of institutions on farm colony plan. The home for the feeble-minded shall be under the administration and control of the director of institu-

tions, hereinafter in this chapter designated as the 'director', as provided in chapter 254A and shall be conducted on the 'farm colony' plan. The director, as provided from time to time by law, shall have power to erect suitable cottages or dormitories, dining halls and kitchens, schoolrooms, workshops, barns, outhouses and such other buildings as shall be found necessary or advisable, and within the scope of available appropriations therefor." [L. 1919, c. 102, s. 2; R. L. 1935, s. 1031; am. L. 1939, c. 203, pt. of 3-a; am. L. 1941, c. 5, pt. of s. 4.]

3. By substituting for the word "board", in the first line of **Section 1032** thereof, the word "director".

4. By substituting for the word "board", in the first line of **Section 1037** thereof, the word "director".

5. By substituting for the word "board", in the second line of **Section 1038** thereof, the word "director".

6. By amending Section 1039 thereof to read as follows:

"Sec. 1039. Unlawful detention; appeals. It shall be unlawful to detain any person at the home, whether lawfully committed thereto or not, who is not a feeble-minded person as defined in section 1033, and, without prejudice to his other remedies, any person detained at the home shall, upon application being made by a sheriff, deputy sheriff, or by a relative or next friend of such person, and notice given to the superintendent of the home, or upon application by the superintendent, be entitled to a hearing by the psychiatric commission provided for by chapter 41, and, if a majority of the commission shall be satisfied that such person is not feeble-minded as defined in section 1033, they shall so adjudge and such decision shall be certified to the superintendent of the home and such person shall be forthwith released from detention; provided, that nothing in this section contained shall be deemed to prohibit the commitment of such person to the territorial hospital, in the event that he be found insane within the provisions of chapter 41; and provided, further, that if an appeal in behalf of such person is determined adversely to such person he shall not be entitled to again appeal until after one year following the denial of such previous appeal." [L. 1929, c. 211, s. 1; R. L. 1935, s. 1039; am. L. 1939, c. 203, pt. of 3-a; am. L. 1941, c. 5, pt. of s. 4.]

7. By substituting for the word "board", in the sixth line of **Section 1041** thereof, the word "director"; and by substituting for the word "it", in the next line of said section, the word "him".

Section 5. All unexpended moneys heretofore, or during the present session of the legislature, or any extension thereof,

appropriated, or otherwise held, for administration or expenditure by or under the supervision of the board of commissioners for Waimano Home are hereby reappropriated and transferred to the director of institutions to be administered by him and expended for the same respective purposes for which said moneys were held or expendable prior to such reappropriation and transfer, such expenditures to be made upon vouchers approved by him or his duly authorized subordinates, unless otherwise specifically provided by law.

Section 6. On the effective date of this Act all officers and employees then in the employ of the board of commissioners for Waimano Home shall continue in their respective offices or employments under the jurisdiction and control of the director of institutions, subject to the provisions of the Civil Service Act.

All appeals under chapter 32 of the Revised Laws of Hawaii 1935, to the board of commissioners for Waimano Home which are pending and undisposed of on the effective date of this Act shall be transferred to and heard and disposed of by the psychiatric commission, and the decisions on any of such appeals shall be given effect in the same manner as corresponding appeals commenced after said effective date.

This Act, except as otherwise expressly or by necessary implication required or provided herein, shall not affect the validity or effectiveness of any commitment, award, or decision made, rules promulgated, or act done, or the enforceability of any rights, liabilities, penalties or forfeitures, accruing, acquired or incurred, prior to said effective date, but the same shall be given effect and enforced in the same manner and to the same extent, as nearly as may be, except for the substitution, wherever appropriate, of the officers or agencies of the department of institutions.

Section 7. If any portion of this Act, or of any other law as amended by this Act, or its application to any persons or circumstances, shall be held unconstitutional or invalid, the validity of the remainder of this Act or of said other law, or the application of said portion to other persons and circumstances, shall not be affected.

Section 8. All territorial laws or parts of laws inconsistent with the provisions of this Act or of any other law as amended by this Act, are hereby amended to conform to this Act and to said other law as amended by this Act.

Section 9. This Act shall take effect upon July 1, 1941.

(Approved March 21, 1941.) **S.B. 56, Act 5.**

DEPARTMENT OF INSTITUTIONS.
HAWAII TERRITORIAL GUARD.

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[SERIES D-233.—Act 40
[SERIES D-234.—Act 125

[D-233] An Act to Provide for the Exchange of Physicians of Any Hospital or Institution Under the Jurisdiction of the Director of Institutions With Physicians of States and Territories.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 7772.6] Section 1. [Exchange of physicians.] The director of institutions is hereby authorized to contract for the exchange of physicians of any hospital or institution under his jurisdiction with physicians of like qualifications of any similar hospital or institution of any state or territory. Physicians of any such hospital or institution of the Territory of Hawaii so exchanged shall be paid their regular salaries out of the funds appropriated for that purpose. No such contract shall be valid unless approved by the governor.

Notwithstanding the requirements of chapter 39 of the Revised Laws of Hawaii 1935, as amended, the board of health is hereby authorized to grant without examination, upon the written recommendation of the board of medical examiners, a temporary permit to practice medicine and surgery for the sole purpose of authorizing the visiting exchange physician to practice in such hospital or institution of the Territory of Hawaii only and such permit shall be revoked upon termination of the contract.

The requirements of citizenship and residence and the provisions of Act 187 of the Session Laws of Hawaii 1939, are hereby expressly waived as to physicians coming to the Territory of Hawaii under this Act.

All physicians so exchanged by the director of institutions shall furnish their own transportation to and from the state or territory involved in the exchange.

Section 2. This Act shall take effect upon its approval.

(Approved April 17, 1941.) **H.B. 33, Act 40.**

**CHAPTER 254B. HAWAII
TERRITORIAL GUARD.**

[D-234] An Act to Provide for a Territorial Guard.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 7775.] Section 1. **Authority; name.** Whenever any part of the national guard of the territory is in active federal ser-

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vice, the governor is hereby authorized to organize and maintain within the territory during such period, under such regulations as the Secretary of War of the United States may prescribe for discipline in training, such military forces as the governor may deem necessary to defend this territory. Such forces shall be composed of officers commissioned or assigned, and such able-bodied male citizens of the territory as shall volunteer for service therein, supplemented, if necessary, by men of the reserve militia enrolled by draft or otherwise as provided by law. Such forces shall be additional to and distinct from the national guard and shall be known as the Hawaii Territorial Guard. Such forces shall be uniformed.

[**Sec. 7775A.**] Section 2. **Organization; rules and regulations.** The governor is hereby authorized to prescribe rules and regulations not inconsistent with the provisions of this Act governing the enlistment, organization, administration, equipment, maintenance, training and discipline of such forces: Provided, such rules and regulations, insofar as he deems practicable and desirable, shall conform to existing law governing and pertaining to the national guard and the rules and regulations promulgated thereunder and shall prohibit the acceptance of gifts, donations, gratuities or anything of value by such forces or by any member of such forces from any individual, firm, association, or corporation by reason of such membership.

[**Sec. 7775B.**] Section 3. **Pay.** The pay of commissioned officers, warrant officers, and enlisted men while on active duty shall be the same as that now provided by law for members of the Hawaii National Guard.

[**Sec. 7775C.**] Section 4. **Requisitions; armories; other buildings.** For the use of such forces, the governor is hereby authorized to requisition from the Secretary of War such arms and equipment as may be in possession of and can be spared by the War Department; and to make available to such forces the facilities of territorial armories and their equipment and such other territorial premises and property as may be available.

[**Sec. 7775D.**] Section 5. **Federal service.** Nothing in this Act shall be construed as authorizing such forces, or any part thereof, to be called, ordered or in any manner drafted, as such, into the military service of the United States, but no person shall by reason of his enlistment or commission in any such forces be exempted from military service under any law of the United States.

[**Sec. 7775E.**] Section 6. **Civil groups.** No civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league, or other combination of persons or civil group shall be enlisted in such forces as an organization or unit.

[**Sec. 7775F.**] Section 7. **Disqualifications.** No person shall be commissioned or enlisted in such forces who is not a citizen of the United States or who has been expelled or dishonorably discharged from any military or naval organization of this territory, or of a state, or of the United States.

[**Sec. 7775G.**] Section 8. **Oath of officers.** The oath to be taken by officers commissioned in such forces shall be substantially in the form prescribed for officers of the national guard, substituting the words Hawaii Territorial Guard where necessary.

[**Sec. 7775H.**] Section 9. **Enlisted men.** No person shall be enlisted for more than one year, but such enlistment may be renewed. The oath to be taken upon enlistment in such forces shall be substantially in the form prescribed for enlisted men of the national guard, substituting the words Hawaii Territorial Guard where necessary.

[**Sec. 7775I.**] Section 10. **Articles of War. Freedom from arrest; jury duty.** (a) Whenever such forces or any part thereof shall be ordered out for active service the Articles of War of the United States applicable to members of the national guard of this territory in relation to courts martial, their jurisdiction and the limits of punishment and the rules and regulations prescribed thereunder shall be in full force and effect with respect to the Hawaii Territorial Guard.

(b) No officer or enlisted man of such forces shall be arrested on any warrant, except for treason or felony, while going to, remaining at, or returning from a place where he is ordered to attend for military duty. Every officer and enlisted man of such forces shall, during his service therein, be exempt from service upon any posse comitatus and from jury duty.

[**Sec. 7775J.**] Section 11. **Severability.** If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Section 12. **Repeal.** All Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed.

[Sec. 7775K.] Section 13. **Short title.** This Act may be cited as the Hawaii Territorial Guard Act.

Section 14. **Time of taking effect.** This Act shall take effect upon its approval.

(Approved April 29, 1941.) **H.B. 108, Act 125.**

CHAPTER 259. PENSIONS.

POLICEMEN, FIREMEN AND BANDSMEN.

[D-235] An Act Relating to Pensions Payable From the Pension Funds for Policemen, Firemen and Bandsmen of the Several Counties, and Providing for Additional Service Credit to Members.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of trustees of the pension fund for each county (including the City and County of Honolulu), established in conformity with section 7903 of the Revised Laws of Hawaii 1935, is authorized and directed to include and take into consideration, for the purpose of computing the period of service of each member of such pension fund to determine his eligibility for retirement and also to determine the amount of any pension allowable to him on such retirement, not only service of such member as a policeman, fireman or bandsman in such county, but also any other service under the government of such county, for which service such member would be entitled to "prior service credit" or "membership service" as defined in Act 55 of the Session Laws of Hawaii 1925, if he had become a member of said retirement system on January 1, 1928, as a person then in the service of said county.

No such additional credit for service other than as a policeman, fireman or bandsman, provided for by this Act, shall be given to any member of such pension fund unless such member shall, on or before December 31, 1941, apply to the trustees of said pension fund upon such forms and in accordance with such rules as such trustees shall prescribe, for such additional service credit. It shall be the duty of the trustees of each such pension fund immediately upon the passage of this Act to notify all members of said pension fund, including members already on pension, of the requirements of this Act.

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[SERIES D-236.—Act 188
[SERIES D-237.—Act 178

Section 2. This Act shall take effect upon its approval and shall apply to persons pensioned before, as well as after, said effective date; provided that any increase of pension resulting from the additional service credit allowed under this Act shall not be retroactive as to pension payments made prior to such effective date.

(Approved April 30, 1941.) **H.B. 8, Act 133.**

[D-236] An Act to Amend Section 7905, Revised Laws of Hawaii 1935, as Amended by Act 86, Session Laws of Hawaii 1939, Relating to Pensions for Policemen, Firemen and Bandsmen.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 7905**, Revised Laws of Hawaii 1935, as amended by Act 86, Session Laws of Hawaii 1939, is hereby further amended by adding a new paragraph at the end thereof to be numbered paragraph "7", reading as follows:

"7. To assist the board in arriving at a determination of earnings of a pensioner, the board may call upon the county auditor to make such investigation as is necessary, and may call the pensioner to appear before it and give, under oath, any pertinent information respecting his or her earnings, and in case of refusal of such pensioner to appear and give such information, the board is authorized and empowered to suspend or withhold the payment of all or any part of any pension otherwise payable while such refusal continues."

Section 2. This Act shall become effective upon its approval.

(Approved May 9, 1941.) **S.B. 127, Act 188.**

RESTRICTIONS AND REGULATIONS.

[D-237] An Act to Amend Section 7917 of the Revised Laws of Hawaii 1935, Relating to Pro Rata Payment of Pension on Death of Pensioner.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 7917 of the Revised Laws of Hawaii 1935, is hereby amended to read as follows:

PAYMENT ON DEATH OF PENSIONERS.

SERIES D-237.—ACT 178]

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“Sec. 7917. Payment on death of pensioner. Whenever any person receiving a pension from the Territory or from any county or city and county thereof shall die, the amount next payable under the pension shall be pro rated from the last payment date up to and including the date of death and the sum so pro rated shall be paid to such person as may have been designated by the pensioner during his lifetime in a writing filed with the officer charged with payment of the pension, or, if no such designation shall have been made and filed, then the officer shall pay the amount so due to the executor or administrator of the estate of the pensioner.” [L. 1931, c. 172, s. 1; R. L. 1935, s. 7917; am. L. 1941, c. 178, s. 1.]

Section 2. This Act shall take effect upon its approval.

(Approved May 8, 1941.) **S.B. 390, Act 178.**

PENSIONS.

[D-238] An Act to Provide a Pension for William Henry Rice and Authorizing and Directing the County of Kauai to Pay the Same.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the county of Kauai is hereby authorized and directed to pay to **William Henry Rice**, each month, for the term of his natural life, beginning with the month of July, 1941, the sum of three hundred and fifty dollars (\$350.00); provided, however, that no such monthly payments shall be made during such time as the said William Henry Rice is holding any salaried position of the Territory of Hawaii or any political subdivision thereof.

Section 2. This Act shall take effect after its approval.

(Approved May 10, 1941.) **S.B. 13, Act 200.**

[D-239] An Act Providing a Pension for Charles H. Rose, Sr., and Authorizing and Directing the Board of Supervisors of the City and County of Honolulu to Pay the Same.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the city and county of Honolulu is hereby authorized and directed to pay each month, beginning with the month of July, 1941, a pension to **Charles H. Rose, Sr.**, such pension to cease upon his death, of one hundred dollars (\$100.00) a month, subject to the provisions of subsections 1, 2 and 3 of section 7915, and of section 7917, of the Revised Laws of Hawaii 1935.

Section 2. This Act shall take effect upon its approval.

(Approved May 10, 1941.) **S.B. 83, Act 203.**

MUNICIPAL AND COUNTY PENSION SYSTEMS.

[D-240] An Act to Amend Act 237, Session Laws of Hawaii 1937, as Amended by Act 112, Session Laws of Hawaii 1939, Relating to Municipal and County Pension Systems.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The first paragraph of section 1 of Act 237 of the Session Laws of Hawaii 1937, as amended by Act 112 of the Session Laws of Hawaii 1939, is hereby further amended to read as follows:

[Sec. 7919.] "Section 1. **Pension boards; appointments, terms, removals; qualifications; assistants.** A pension board, hereafter referred to as the 'board', is hereby created for each of the counties of the Territory, with full authority, within the limits prescribed by law, to make investigations as necessary to comply with any provisions of this Act and to grant pensions to employees and former employees of their respective counties, who are or were ineligible to the benefits of the employees' retirement system, and are not the recipients or beneficiaries of pensions from the Territory or any county, or to the widows of such employees."

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1941.) **S.B. 536, Act 299.**

[See also, following Act.]

[D-241] An Act to Amend Act 237, Session Laws of Hawaii 1937, as Amended by Act 112 (Series D-177) of the Session Laws of Hawaii 1939, Relating to Municipal and County Pension Systems.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 237 of the Session Laws of Hawaii 1937, as amended by Act 112 (Series D-177) of the Session Laws of Hawaii 1939, is hereby amended by deleting from the eighth and ninth lines of the fifth paragraph of section 1 [Sec. 7919.] thereof, being the third full paragraph appearing on page 338 of said Session Laws of Hawaii 1939, the words "or controller (if any) in the city and county of Honolulu."

Section 2. This Act shall take effect upon its approval.

(Approved May 14, 1941.) **S.B. 237, Act 249.**

[Sec. 7919A. Amended by Section 2 of following Act.]

[D-242] An Act to Amend Act 237 of the Session Laws of Hawaii 1937, as Amended, Relating to Municipal and County Pension Systems.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 237 of the Session Laws of Hawaii 1937, as amended, is hereby further amended in the following particulars:

(1) By inserting therein a new section, designated section 5-A, which shall read as follows:

[Sec. 7719D1.] "Section 5-A. [Computation of service.] Wherever the term of ten years is mentioned in this Act, each year of such ten years shall be computed by adding together the months of service (including portions of any month, where the full month has not been served, as a full month), and dividing such months by twelve.

'Service' shall be construed to mean service in the pensioning county only, and where the proposed pensioner has service in any other county than the one by which it is proposed that he be pensioned, his service in such other county shall not be added to his service in the pensioning county in order to determine his eligibility for or the amount of pension."

(2) By inserting in the proviso in section 2 [Sec. 7919A] of said Act 237, as amended, after the comma following the words "under the provisions of this Act", the following: "or to have had ten or more years of service although he had not reached the age of sixty years,".

Section 2. This Act shall take effect upon its approval.

(Approved May 20, 1941.) **S.B. 468, Act 302.**

CHAPTER 259A. DEPARTMENT OF PUBLIC WELFARE.

[D-243] An Act to Amend Chapter 259-A of the Revised Laws of Hawaii 1935, as Amended by Act 238 of the Session Laws of Hawaii 1939, and Chapter 259-A-1, as Enacted by Said Act 238, Relating to the Department of Public Welfare, Heretofore Known as the Department of Social Security, of the Territory.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 259-A of the Revised Laws of Hawaii 1935, as amended by Act 238 of the Session Laws of Hawaii 1939, and chapter 259-A-1 of said Revised Laws, as enacted by said Act 238, are hereby amended to read as follows:

"CHAPTER 259-A. DEPARTMENT OF PUBLIC WELFARE; CREATION; GENERAL POWERS AND FUNCTIONS.

Sec. 1. **Creation of department; director.** There is hereby created in the territorial government a department of public welfare, to be under the direction and control of a director of public welfare hereinafter referred to as the 'director', who shall be appointed in the manner prescribed by the first paragraph of section 80 of the Organic Act, shall hold office for a term of four years and until his successor is appointed and qualified, unless sooner removed, and who may be removed by the governor for cause. He shall receive such salary as is fixed by the governor (subject to any classification law that may be in effect from time to time), and shall furnish bond in such amount as may be required by the governor.

Sec. 2. **Director; responsibilities and meetings.** The director shall be responsible for the conduct or supervision of all

activities and for the formulation and adoption of all policies, rules and regulations for the administration of this chapter and chapter 259-A-1.

Sec. 3. Appointment of personnel. The director shall appoint such personnel in conformity with law as he deems necessary. All employees of the department except the director, shall be appointed subject to any civil service law relating to territorial employees now in effect or hereafter enacted; in the event there be no civil service law in effect, then in accordance with a merit system meeting applicable federal requirement; provided, that in the event of any conflict between applicable mandatory federal requirements and any territorial civil service law or regulations, the former requirements shall prevail.

Sec. 4. Compensation of employees; bonds. The compensation of all personnel in the department shall be fixed by the director pursuant and subject to the personnel administration system now in effect for the department as the same may be changed by or pursuant to any applicable classification law which may be in effect from time to time. The director shall require such of his appointees as he deems necessary to furnish bond in such amounts as he may prescribe.

Sec. 5. Advisory board; appointment; removal; qualifications. There is hereby created a public welfare advisory board, hereinafter referred to as the 'board', to consist of five members to be appointed and be removable by the governor in the manner provided by section 80 of the Organic Act, one of whom shall be designated in the appointment as chairman. Each member shall be appointed for a term of three years, except that any appointment to fill a vacancy shall be made for the remainder of the unexpired term; provided, that the members first appointed hereunder shall be appointed for terms to expire respectively, two on July 1, 1942, two on July 1, 1943, and the fifth on July 1, 1944. The governor may remove any member for cause. The members shall serve without pay, but shall be entitled to the actual and necessary expenses incurred by them in discharging their official duties.

Appointees to the board shall be selected on the basis of a past record of interest in and understanding of public welfare. No person shall be eligible for membership to the board who occupies any elective or salaried appointive position under any of the federal, territorial or county governments, and no member shall, during his term of office, serve as an officer or committee member of any political party organization, or present himself as a candidate for election to any public office.

Sec. 6. Meetings; report of director. The board shall meet in regular session at least once each month. At each such meeting the director shall make a report covering the activities of the department. Special meetings may be called at the discretion of the chairman, or the director, or upon the request of three or more members. Any matter whatsoever relating to the department may be considered by the board at any meeting, general or special. In the absence of the chairman, the members may designate any present member as acting chairman of the meeting.

Sec. 7. County agents. The director, pursuant to section 3, shall appoint one agent each for the city and county of Honolulu and the counties of Hawaii, Maui and Kauai. Such county agent shall maintain his office at the county seat of the county for which he is appointed and shall be directly responsible to such persons as the director shall designate in conformity with law and federal requirements.

Sec. 8. Fair hearing. An applicant or recipient, deeming himself aggrieved, shall be entitled to appeal to the director in the manner prescribed by departmental regulations and shall be afforded reasonable notice and opportunity for a fair hearing.

Sec. 9. Attendance and testimony of witnesses. In all hearings or investigations conducted by the director or any of his duly authorized subordinates with respect to all matters cognizable by any of them, each of said officers shall have the same powers respecting the administering of oaths, compelling the attendance of witnesses, the production of documentary evidence and examining or causing to be examined witnesses as are possessed by a circuit judge at chambers and may take depositions and certify to official acts. The circuit court of any circuit upon application by any of such officers shall have power to enforce by proper proceedings the attendance and testimony of any witnesses so subpoenaed. Subpoena and witness fees and mileage in such cases shall be the same as in criminal cases in the circuit court. Necessary expenses of or in connection with any such hearings or investigations shall be payable from the funds appropriated for expenses of the department.

No person shall be excused from attending or testifying or producing books, papers, correspondence, memoranda and other records before the director or his duly authorized subordinate or in obedience to the subpoena of any of them in any case or proceeding before them on the ground that the testi-

mony and evidence, documentary or otherwise, required by such officer may tend to incriminate the witness or subject him to a penalty or forfeiture, but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing concerning which he is compelled after having claimed his privilege against self-incrimination to testify and produce evidence, documentary or otherwise, except that such individuals so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Sec. 10. **Reports.** The director shall file with the governor a written report or reports at such times, at least once in each year, and in such form as shall be requested by the governor covering the condition and activities of the department and of each division thereof.

CHAPTER 259-A-1. DEPARTMENT OF PUBLIC WELFARE: SPECIFIC FUNCTIONS.

PART I.

DEFINITIONS; DUTIES; GENERAL PROVISIONS.

Sec. 1. **Definitions.** Unless the context clearly requires a different meaning, when used in this chapter:

‘Department’ means the department of public welfare.

‘Director’ means the director of said department.

‘Public assistance’ shall mean money payments to, or for the benefit of, aged persons, blind persons, dependent children, and other persons whom the department has determined to be unable to procure or provide sufficient support for themselves and those dependent upon them.

‘General assistance’ shall mean that portion of public assistance including money payments to or for the benefit of persons other than the aged, blind, and dependent children whom the department has determined to be unable to procure or provide sufficient support for themselves and those dependent upon them.

‘Applicant’ shall mean the person for whose use and benefit application for public assistance is made.

‘Recipient’ shall mean the person for whose use and benefit a grant of public assistance is made.

'Dependent child' shall mean any minor under eighteen years of age who, for any reason, is destitute or homeless or abandoned or dependent upon the public for support or who has no proper parental care or guardianship, or whose home, by reason of cruelty, neglect or depravity on the part of his parents, guardian or other person in whose care he may be, is an unfit place for such child, and shall also mean any minor under twelve years of age who might if over twelve years of age be adjudged a delinquent child.

'County' shall be deemed to include the city and county of Honolulu.

Sec. 2. Appropriations; expenditures; donations. Moneys provided by the legislature for expenditure by the department shall be expended upon vouchers approved by the director or his duly authorized subordinates.

All contributions or donations of money to the department shall be paid into the territorial treasury to be expended according to law and for purposes in accordance with the terms and conditions of such contributions or donations, and all such moneys are hereby appropriated for such purposes; provided, however, that no such contributions or donations shall be accepted by the department except for expenditures within the purposes of this chapter. The department is authorized to accept donations other than money, provided such donations may be used within the purposes of this chapter, and if accepted, may pay for the storage, handling and distribution of same, provided, however, that any capital expenditures in connection with such storage, handling and distribution shall be approved by the governor.

Sec. 3. Activities of department. Except as otherwise provided by law, the department shall:

(1) Supervise the administration of all public assistance, including general assistance, old age assistance, aid to dependent children, and aid to the blind.

(2) Place, or coordinate in the placing of, dependent children in suitable institutions or private homes, as provided by this chapter.

(3) Administer child welfare activities as provided for in part II of this chapter.

(4) Administer work with and for the blind, including the registry of blind, medical care, vocational guidance, training placement in employment and other services, including the conduct of activities for sight conservation and prevention of blindness.

(5) Cooperate with the federal government in carrying out the purposes of the Social Security Act, and in other matters of mutual concern pertaining to public welfare and public assistance, including the making of such reports, the adoption of such methods of administration and the making of such rules and regulations as may be found by the federal government, or any properly constituted authority thereunder, to be necessary or desirable for the efficient operation of the plans for such public welfare and assistance, or as may be necessary or desirable for the receipt of financial assistance from the federal government.

(6) Carry on research and compile statistics relative to public and private welfare activities throughout the Territory, including those dealing with dependence, defectiveness, delinquency and related problems; and develop plans in cooperation with* other public and private agencies for the prevention and treatment of conditions giving rise to public welfare problems.

(7) Make such rules governing the procedure in hearings, investigations, recording, registration, determination of allowances, and accounting, and conduct such other activities, as may be necessary or proper to carry out the provisions of this chapter, which rules, when approved by the governor, shall have the force and effect of law.

(8) Supervise or administer any other activities authorized or required by this chapter and any other activities placed under the jurisdiction of the department by any other law.

(9) Make, prescribe, and enforce such policies and rules governing the activities provided for in section 8 of this chapter as it shall deem advisable, including the allocation of moneys available for assistance to persons assigned to work projects among the several counties or to particular projects where such apportionment has not been made pursuant to other provisions of law, if any, governing expenditures of such funds, which rules, when approved by the governor, shall have the force and effect of law.

Sec. 4. Commitments directed to the department. If in any proceeding before a juvenile court, as provided for in chapter 133, a child is adjudged and determined to be a dependent within the meaning of this chapter and the court or the judge thereof finds that such child should be removed from its own home, such child shall be committed to the department to provide for and supervise the care and maintenance of such dependent child. The department shall have the authority to place a child so committed to it in a proper institution or

private home, and shall cooperate with public or private authorities, in the placing of such child in a proper institution or suitable private home. Any dependent child, under the age of twelve years, who might, if over twelve years of age, be adjudged a delinquent child, may, in the discretion of the court or a judge thereof, be retained under the court's supervision.

Sec. 5. Authority over and investigation of organizations and institutions caring for dependent children. No organization or institution shall be allowed the care and custody of a dependent child, unless such organization or institution meets with the standards of conditions, management and competence to care for and train children set by the department. It shall be the duty of the department to prepare a statement of such standards of conditions, management and competence.

Upon approval of such organization or institutions, the department or its authorized agents shall issue a certificate of approval which shall continue in force for one year, unless sooner revoked for cause. Such certificate shall be renewed by the department or its authorized agents, after annual investigation, if such investigation shall disclose such organization or institution continues to meet with the standards set by the department. The certificate of approval shall be a permit to operate the organization or institution, and no person or organization shall operate or maintain such organization or institution without such certificate.

Any organization, institution or foster home, to whose care or custody dependent children are entrusted, shall be subject to investigation at any time, in such manner, place and form as prescribed by the department or its authorized agents.

Sec. 6. Applications, manner, form. Applications for public assistance under this chapter shall be made to the department by the applicant, or by someone acting in its behalf, in the manner, place and form prescribed by the department.

No applicant shall be entitled to public assistance under this chapter who has sufficient income or other resources to provide a subsistence compatible with decency and health or, with the exception of dependent children placed by the department in a charitable institution for care and maintenance, who is an inmate of any public institution of a charitable, custodial, correctional or curative character, but an inmate of such an institution may apply for assistance to begin after his discharge from such institution.

Sec. 7. Prevention and treatment of conditions giving rise to need. The department is hereby authorized to carry on

or administer or cooperate with other public or private agencies in work or activities for the purpose of preventing or treating conditions giving rise to the need for public assistance in any case in which such work or activities may prevent, shorten, or eliminate the need of public assistance. Such work or activities, if any, shall be taken into consideration in deciding upon or deferring action upon any application for public assistance.

Sec. 8. Assignment of persons in need of public assistance to work on public projects. The department, as far as permissible under the then existing federal laws, may assign persons in need of public assistance to work on territorial, county or other public projects whether or not such projects are conducted in cooperation with any federal agency for the relief of unemployment.

The amount of assistance to be paid to such persons shall be fixed by the department, taking into consideration the work performed, and may exceed the amount or value of the grant of public assistance, which would have been made had no such assignment to a work project been made, but in no event shall such additional assistance, granted because of assignment to a work project, exceed the amount necessary to provide for extra expenses, incurred by the recipient for food, clothing, transportation and incidentals.

Sec. 9. Application of chapter 245 to persons in need of public assistance assigned to work projects. Chapter 245 shall apply to recipients of public assistance assigned to work on public projects pursuant to section 8 of this chapter, who shall be deemed employees for the purposes of said chapter 245, and an award may be made against the Territory or a county or other public body, as the case may be, according to the project upon which the person injured was engaged at the time of the injury.

Sec. 10. Protection of records. It shall be the duty of the department and its agents to keep such case records as may be necessary or proper in accordance with the provisions of this chapter. All applications and records concerning any applicant or recipient shall be confidential and shall be open to inspection only by persons duly authorized by the Territory or the United States in connection with their official duties, or to employees, acting within the scope and course of their employment, of such recognized social welfare organizations as may be approved by the department, and there is hereby conferred upon the department and its agents the authority

and duty to determine whether or not such inspection is in connection with such official duties or within the scope and course of such employment. The department shall promulgate and enforce such rules as may be necessary to prevent improper acquisition or use of such confidential information. Any information secured pursuant to this section by such officials or employees may be used in connection with their official duties or within the scope and course of their employment but not otherwise, and shall be kept in confidential records or files, which shall not be subject to any other law permitting inspection of public records. The use of the records, papers, files and other communications of the department or its agents by any other agency or department of government to which they may be furnished shall be limited to the purposes for which they are furnished.

Any person, including any person acquiring information through inspection permitted him or another under this section, who, knowing such information to have been acquired from the confidential records or files of the department, divulges the same except as authorized in this section or by other provisions of law, or who aids or abets in the inspection of such applications or records by any person unauthorized to inspect the same under the provisions of this chapter or other provisions of law, shall be guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars.

Sec. 11. Relief limited. During the continuance of public assistance under the provisions of this chapter, no recipient shall receive any other public assistance from the Territory or any county, except for necessary medical, dental, and surgical care, or in such amounts as are necessary to supplement the public assistance granted pursuant to this chapter, where the amounts of such other public assistance from the Territory or any county have been taken into consideration in deciding upon any application for public assistance.

Sec. 12. Assistance payments inalienable. All assistance payments and all compensation paid by the department to blind persons and other persons for work performed in their homes or in workshops shall be inalienable by any assignment, sale, attachment, garnishment, execution or otherwise.

Sec. 13. Assistance improperly obtained, inquiry, suspension. If at any time the department has reason to believe that any public assistance has been improperly obtained, it may cause special inquiry to be made by the county attorney and

may suspend payment of such assistance pending the inquiry. If, on inquiry, and after the recipient has had reasonable notice and an opportunity for a fair hearing, it appears that the assistance was improperly obtained, it shall be cancelled and the person whose assistance has been cancelled shall be disqualified from making new application for such period as may be determined by the department. If it appears that the assistance was properly obtained, the suspended payment shall be payable in due course.

Sec. 14. Cancellation or revision. If, at any time during the currency or continuance of public assistance, the recipient, or any person legally liable for the support of the recipient becomes possessed of any property or income in addition to that available at the time the grant was made, the department may, for such cause or for any other like cause, either cancel the assistance or change the amount thereof.

Sec. 15. Assistance payments subject to change or repeal. All public assistance granted under the provisions of this chapter shall be deemed to be granted and held subject to the provisions of any amending or repealing Act that may hereafter be passed and no recipient under this chapter shall have any claim for compensation or otherwise by reason of his assistance being affected in any way by any such amending or repealing Act.

Sec. 16. Recovery from estate. If a recipient under this chapter dies leaving an estate, the department may file a claim against such estate for the amount of public assistance granted under the provisions of this chapter, and such claim shall be allowed.

Upon the recovery of any claim as provided in this section, the amount so recovered shall be paid into the treasury of the Territory, and if the amount for which claim was made was paid in part from federal funds, the proper portion thereof shall be paid by the treasurer of the Territory into the treasury of the United States, and the treasurer shall thereupon report such payment to the department.

Sec. 17. Frauds, etc. Any person who by means of a wilfully false statement or representation, or by impersonation, or other fraudulent device, obtains or attempts to obtain, or aids or abets any other person to obtain public assistance to which he is not justly entitled, or a larger amount of assistance than that to which he is justly entitled; or payment of any forfeited installment grant; or who aids and abets in the buying or in any way disposing of the property of a public

assistance recipient without the consent of the department, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars or be imprisoned for not more than one year or both.

Sec. 18. **Incompetency of recipient.** If the recipient is found incapable of taking care of his money or himself, the department may direct its assistance to be paid to a legal guardian or any other reputable person for his benefit or may suspend assistance for such period as it deems fit.

Sec. 19. **Legal representative.** The attorney general and the county attorneys shall act as legal representatives of the department when so requested.

PART II.

PUBLIC ASSISTANCE TO THE AGED, THE BLIND, DEPENDENT CHILDREN AND CHILD WELFARE SERVICES.

Sec. 20. **Public assistance.** The department shall administer in the several counties public assistance to the aged, the blind, and dependent children, and shall administer within the Territory child welfare services referred to in section 26 of this chapter.

Sec. 21. **Aged persons.** A person shall be eligible for old age assistance who:

(1) Is in need and has not sufficient income or other resources to provide a subsistence compatible with decency and health;

(2) Resides in the Territory and has so resided for not less than one year immediately preceding the date of the application, except where a longer period is required by and for the purposes of section 41 of this chapter; and

(3) Is sixty-five years of age or more; provided that, in the event that the minimum age for determining eligibility for old age assistance under the federal laws shall be reduced, the minimum age prescribed by this paragraph shall thereby automatically be reduced to conform to said federal minimum, but in no case below sixty years.

Sec. 22. **Blind persons.** A person shall be eligible for public assistance who:

(1) Is in need and has not sufficient income or other resources to provide a subsistence compatible with decency and health;

(2) Has resided in the Territory for at least one year immediately preceding application for assistance, except where

a longer period is required by and for the purposes of section 41 of this chapter; and

(3) Has vision in the better eye, with corrective glasses, of less than twenty two-hundredths ($20/200$) or a disqualifying field defect sufficient to incapacitate him for self-support.

Sec. 23. Dependent children. A dependent child shall be eligible for public assistance who:

(1) Is in need, and has not sufficient income or other resources to provide care and support compatible with decency and health;

(2) Has not attained the age of eighteen years;

(3) Is deprived of parental support or suitable care by reason of the death, continued absence from home, physical or mental incapacity, or cruelty, neglect or depravity on the part of a parent;

(4) Is living in a home with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, uncle or aunt, in a place of residence maintained by such relative as his own home; or is living in a family home or institution conforming to the standards fixed by the department; and

(5) Has resided in the Territory for one year immediately preceding application for assistance, or was born within one year immediately preceding application of a mother who resided within the Territory for one year immediately preceding such birth.

Sec. 24. Determination of amount of assistance. The amount of public assistance granted, including funds received from the federal government, shall not exceed in the case of any applicant an amount in excess of that determined upon investigation or by the decision of the department to be compatible with maintaining decency and health, and in the case of an aged or blind person shall not exceed forty dollars per month. In granting public assistance to an aged or blind person the department may take into consideration part or all of the needs of such person's dependents, provided they are eligible for public assistance, but such aged or blind person nevertheless shall not be the recipient of a grant in excess of forty dollars per month; in the event that such grant has taken into consideration only part of the needs of such dependents such grant shall be without prejudice to a separate grant of assistance to such dependents or any of them, as may be proper upon consideration of their remaining needs and in compliance with the provisions of this chapter. Where a dependent child is the applicant and the recipient of a grant, even though his

assistance is paid to such aged or blind person for his benefit, the grant to such dependent child shall not be included in applying the limitation of forty dollars per month hereinbefore provided.

Sec. 25. Home conditions, right of removal. A determination by the department that the home where a dependent child lives is no longer a suitable or proper place for the rearing of said child shall constitute good reason for the revocation of a grant of public assistance and such other provisions shall be made for the care of the child as may be deemed necessary.

Sec. 26. Federal assistance for child welfare services. For the purpose of qualifying for federal assistance in the allotment of funds for child welfare services in the Territory as contemplated in Part 3 of Title V of the social security act, the department shall cooperate with the children's bureau of the United States department of labor, and shall make such rules and regulations and establish such methods of administration and shall make such reports as may be required by virtue of any law or regulation of the United States or any properly constituted authority thereunder under which the Territory of Hawaii may become entitled to financial assistance from the United States government for child welfare service. The treasurer of the Territory shall be the custodian of funds received for such services from the federal government.

Sec. 27. Examination of blind. The department shall not approve an application for public assistance to a blind person until the applicant has been examined by an ophthalmologist or a qualified physician designated by it to make such examinations. The examining person shall certify to the department the diagnosis, prognosis, and visual acuity of the applicant. Certification shall be on forms prescribed by the department.

Sec. 28. Aged and blind assistance not to be paid to same persons. Public assistance shall not be granted to a blind person with respect to any period in which he is receiving public assistance as an aged person.

Sec. 29. Report to auditor. On or before February 15 of each year, the department shall make a report of the preceding year to the territorial auditor stating the total number of recipients, the amounts disbursed for the several categories of assistance, the total number of applications, the number of persons granted assistance, the number denied, the number

having assistance cancelled during the year, and giving such other information as the territorial auditor may deem advisable.

Sec. 30. Territorial reimbursement. The department shall comply with all federal requirements pertaining to methods and standards of administration and shall make such rules and regulations and follow such procedure as may be required for the receipt from the federal government of grants or grants-in-aid for public assistance and such administrative costs as are provided in connection therewith.

PART III.

CONSERVATION OF SIGHT AND WORK WITH THE BLIND.

Sec. 31. Registration of blind. It shall be the duty of the department to cause to be maintained a complete register of the blind in the Territory which shall describe the condition, causes of blindness, capacity for education and industrial training and such other facts as may seem to it to be of value regarding each blind person, together with recommendations for rehabilitation and relief.

It shall register cases of persons whose eyesight is seriously defective or who are likely to become visually handicapped or blind, and take such measures in cooperation with other authorities, as it may deem advisable for the prevention of blindness or conservation of eyesight, and in appropriate cases provide for or secure the vocational guidance of persons having seriously defective sight.

Sec. 32. Cause and prevention of blindness, examinations. It shall be the duty of the department to make investigation of the causes of blindness, to learn what proportion of the cases are preventible and to inaugurate and cooperate in any such preventive measures as may seem advisable for the Territory. It may arrange for the examination of the eyes of the individual blind or partially-sighted persons and may provide or secure medical and surgical treatment of such persons whenever, in its judgment, the sight of such persons may be benefited thereby.

Sec. 33. Agencies for information and industrial aid. The department shall maintain or cause to be maintained one or more agencies for employment information and industrial aid, the object of which shall be to aid the blind and those with seriously defective eyesight in finding employment and shall provide instruction for such persons in trades and occupations which may be followed in their homes, and shall assist such

persons in whatever manner it may deem advisable in disposing of the products of their home industry.

Sec. 34. Workshops. The department may also, whenever it deems proper, aid individual blind persons or groups of blind persons to become self-supporting by employing them in workshops operated exclusively for the blind or in their own homes at such compensation as the department may determine their services shall warrant, and by furnishing them with materials, machinery and other facilities. No blind person as so employed shall be deemed an employee of the Territory or of the department within the meaning of this or any other chapter, or any Act.

Sec. 35. Visiting the blind; home teaching. The department may take whatever measures it deems necessary to ameliorate the condition of the blind by promoting visits among them, providing instruction in their homes, and circulating reading matter among them for their education and recreation.

Sec. 36. Sight conservation and prevention of blindness. The department shall take such measures in cooperation with the department of public instruction and other public and private authorities as it may deem advisable for the education of children in the conservation of eyesight and the prevention of blindness, and may recommend for sight-saving classes, or for the territorial school for the blind, children certified by any reputable oculist as fit subjects for instruction therein.

It shall conduct or supervise such vision-testing activities in public and private schools as it deems advisable and as meets the approval of the school authorities to determine those children who have defective vision and shall make recommendations for the conservation or correction of their vision, and shall cooperate with school authorities to secure proper lighting and in such other measures as it may deem advisable to remedy conditions which may be conducive to or cause weakening of eyesight.

It shall cause to be conducted classes and lectures in sight conservation and prevention of blindness for teachers and public health nurses and others engaged in like work, and cooperate with public and private organizations and societies in an effort to educate the public in the importance of sight conservation, and may sponsor illustrated exhibits and lectures to officials and employees of private industrial organizations or public bodies with a view to emphasizing the importance of proper care of the eyes and the adoption of safety measures to reduce accidents resulting in eye injuries, and may take such

action as may be necessary or proper to secure scientific illumination in public and private buildings.

It may also accept and expend or distribute donations, eye glasses and other services for sight conservation and for assistance to the blind, provided, however, that any donations of money so received shall be deposited in the territorial treasury and disbursed therefrom for said purposes pursuant to this chapter.

PART IV.

GENERAL ASSISTANCE.

Sec. 37. **General assistance.** The department shall administer public assistance to those needy persons not otherwise provided for under this chapter, who for any reasons satisfactory to the department are unable to procure or provide sufficient support for themselves or those dependent upon them. The department shall cooperate with the various charitable organizations to avoid duplications.

Sec. 38. **Applications.** Applications for general assistance shall be made by applicant or by someone acting in his behalf in the manner, place and form prescribed by the department.

Sec. 39. **Amount of grants.** Upon receipt of an application for general assistance, the department shall investigate and prepare a complete record of the circumstances of the applicant and his dependents, if any. The amount or value of such assistance shall not exceed such minimum as in the judgment of the department will provide for the minimum needs (including food, shelter, clothing, utilities and incidentals) compatible with the maintenance of decency and health of such applicant and his dependents.

Sec. 40. **Revolving fund.** The treasurer is hereby authorized and directed to set up, out of any moneys (other than moneys expressly appropriated for conservation of sight and work with the blind) heretofore or hereafter appropriated for the purposes of this chapter, a revolving fund not to exceed in amount the sum of ten thousand dollars. This fund may be used by the department for workshop purposes or home labor purposes for the blind or others who, in the opinion of the department, will be benefited by such experience, and all moneys in said fund may be expended for materials, machinery and other facilities and for the erection, operation and conduct of such workshops, and for the payment of such compensation, as the department may authorize. All proceeds derived from sale of products of such workshops or such home labor shall

be deposited in said fund. The provisions of this section shall be subject to any federal policies, rules or regulations, which may be applicable in order to obtain federal aid or the co-operation of any federal agency concerned.

Sec. 41. Residence and reciprocal arrangements. The director is hereby authorized to negotiate with proper authorities and agencies of states or other political subdivisions or dependencies of the United States, or of any foreign government, outside the Territory of Hawaii relative to the return of needy persons to their places of residence. In each instance, the legal settlement law of such political subdivision shall be considered the legal settlement law of the Territory of Hawaii in so far as the particular dependent child, or aged, blind or other needy person, involved in the negotiation is concerned, any other provision of this chapter to the contrary notwithstanding. Such law shall apply to the needy person only so long as negotiations are under way for his return to his place of residence. The director shall notify the proper authorities in each of the forty-eight states, the territories of Alaska and Puerto Rico, the District of Columbia, and other dependencies of the United States, of the provisions of this section.

Sec. 42. Transportation. The director may, in his discretion, authorize the payment of the cost of transporting any person who has insufficient income to provide a subsistence compatible with decency and health from the Territory of Hawaii or from one of its subdivisions to another. Removal of such a person from the Territory of Hawaii shall be contingent upon the written approval of the agency authorized to grant permission for the return of a needy person to his place of residence outside the Territory of Hawaii. The cost of such transportation shall not exceed the minimum fare to such point by the least expensive means of transportation available. The director may also furnish such person with sufficient assistance to maintain him with the necessities of life while on his journey.

Sec. 43. Authority re acceptance of grants-in-aid or outright grants. The board shall have authority to accept, at any time, grants-in-aid or outright grants from the federal government or any department thereof for general assistance, medical assistance, care of transients and other non-residents, and to cooperate with the federal government in connection therewith."

Section 2. Any law or portion of law inconsistent or in conflict with this Act is hereby amended to conform to this Act.

Section 3. This Act shall not be construed to create a new department, but shall be deemed to constitute a continuation of the former department of social security of the Territory with the changes of name and official titles and other titles provided in this Act. Subject to the amendments made by this Act, all rights, liabilities, powers, duties and functions of said former department of social security shall continue unaffected under said department of public welfare, which shall continue to exercise, enjoy and be subject to all of said rights, liabilities, powers, duties and functions, without change or abatement except as shall be necessary to conform to this Act. All unexpended moneys heretofore, or during the present session of this legislature or any extension thereof, or prior to the effective date of this Act, appropriated to, or otherwise held or available for expenditure by, the department of social security of the Territory, shall be, and they hereby are, re-appropriated to and made subject to and available for expenditure by the department of public welfare under and pursuant to this Act.

All officers and employees of the former department of social security of the Territory in service on the effective date of this Act shall continue in the service of the department of public welfare without change in status, subject, however, to any suspensions, removals or other changes in compensation or status or otherwise which may lawfully be made thereafter by the department in conformity with this Act and any applicable civil service or classification laws or regulations which may be in effect from time to time.

This Act, except as otherwise expressly or by necessary implication required or provided herein, shall not affect the validity or effectiveness of any award or decision made, rules promulgated, or act done, or the enforceability of any rights, liabilities, penalties or forfeitures, accruing, acquired or incurred, prior to said effective date under any law amended by this Act, but the same shall be given effect and enforced in the same manner and to the same extent, as nearly as may be, except for modifications necessary to conform to this Act and for the substitution, wherever appropriate, of the officers or agencies created by this Act in lieu of those provided by said laws prior to their amendment by this Act, as if this Act had not been enacted, subject, however, to such changes or other or further action by the department of public welfare as may legally be made or taken under this Act.

Forms of applications, orders, reports, letters and other forms used by the department of social security prior to said effective date may continue to be used thereafter with the same effect as if this Act had not been enacted, except as ex-

pressly otherwise ordered by the department of public welfare; and in all such forms, and in any other laws not expressly and specifically amended by this Act, and in all rules and regulations of the department of social security in effect immediately prior to said effective date and continued in effect by this Act, any references to said department of social security or its officers or employees, or to persons or matters which were under its jurisdiction prior to said effective date, shall be deemed to apply and refer to said department of public welfare, or to its officers or employees, or to persons or matters under its jurisdiction, as the circumstances may indicate to be appropriate.

Section 4. Separability of provisions. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 5. This Act shall take effect only in the event that Senate Bill No. 363 of the current session of this legislature shall become law, in which event this Act shall take effect on July 1, 1941.

(Approved May 19, 1941.) **S.B. 362, Act 296.**

[Note: S.B. 363 is Act 213, *supra*, page 114.]

CHAPTER 259B. LABOR AND INDUSTRIAL RELATIONS DEPARTMENT.

[D-244] An Act to Amend Section 18 of Chapter 259B of the Revised Laws of Hawaii 1935, as Enacted by Act 237 of the Session Laws of Hawaii 1939, Relating to Child Labor.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 18 of chapter 259B of the Revised Laws of Hawaii 1935, as enacted by Act 237 of the Session Laws of Hawaii 1939, is hereby amended in the following respects:

(1) by amending the first paragraph of said section 18 to read as follows:

“Sec. 18. **Child Labor.** Nothing in this section shall be construed to apply to the work of a minor in agricultural labor

or work in other than hazardous occupation if the work is performed when such minor is not legally required to attend school and is performed directly for his parents or guardian, nor to the work of a minor performed in connection with the sale or distribution of newspapers or in domestic service, nor to the work of a minor more than fourteen years of age in agricultural labor when said minor is not legally required to attend school."

(2) by amending subsection (a) of said section 18 to read as follows:

"(a) No minor under sixteen years of age shall be employed or permitted to work in, about, or in connection with any gainful occupation, at any time, provided, that minors between twelve and sixteen years of age may work when not legally required to attend school but not in a factory or in any gainful occupation otherwise prohibited by law;"

(3) by amending the first paragraph of subsection (b) of section 18 to read as follows:

"(b) No minor under sixteen years of age shall be employed or permitted to work in, about, or in connection with any power-driven machinery, nor shall any minor under eighteen years of age be employed in any occupation which the commission shall, after public hearing thereon, by rule declare to be particularly hazardous for the employment of such minor or detrimental to his life, health, safety or well-being, nor shall any such minor under sixteen years of age be employed or permitted to work in, about, or in connection with any gainful occupation more than six consecutive days in any one week, or more than forty hours in any one week, or more than eight hours in any one day, or before seven o'clock in the morning or after six o'clock in the evening of any day. The combined hours of work and hours in school of minors under sixteen employed outside school hours shall not exceed a total of nine per day."

(4) by amending subsection (c) of section 18 to read as follows:

"(c) No minor under sixteen years of age shall be employed or permitted to work for more than five hours continuously without an interval of at least 30 minutes for a lunch period, and no period of less than 30 minutes shall be deemed to interrupt a continuous period of work."

(5) by amending the first paragraph of subsection (d) of said section 18 to read as follows:

"(d) No minor under eighteen years of age shall be employed or permitted to work in, about, or in connection with any gainful occupation, unless and until the person employing such minor shall procure and keep on file an employment cer-

tificate for such minor issued by persons appointed by the director in such form and under such conditions as he may prescribe. Employment certificates shall be of two kinds, regular certificates permitting employment during school hours, and vacation certificates permitting employment during times when said minor is not legally required to attend school.”

(6) by amending the last paragraph of said subsection (d) of said section 18 to read as follows:

“Every employer receiving an employment certificate shall, immediately after termination of the employment, return said certificate to the office from which the same was issued. The director may revoke any employment certificate if in his judgment it was improperly issued or the minor is illegally employed.”

Section 2. This Act shall take effect on July 1, 1941.

(Approved May 21, 1941.) **S.B. 279, Act 319.**

CHAPTER 259C. LABOR: PUBLIC UTILITIES.

[D-245] An Act Relating to Labor Disputes, Providing for Their Avoidance and Settlement and Regulating the Conduct of the Parties to the Same; Conferring Certain Powers and Imposing Certain Duties Upon the Director of Labor and Industrial Relations and Certain Boards and and Officers Therein Mentioned; Providing Penalties; and Repealing Certain Laws Inconsistent Therewith.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 7919CA.] Section 1. [Definitions.] Where used in this Act unless the context clearly otherwise indicates:

1. “Public utility” shall have the meaning given that term in section 7940 of the Revised Laws of Hawaii 1935, or as such section may be amended. It shall not include the Territory or any county or any commission or board of the Territory or any county, nor any person subject to the federal railway labor Act, as amended from time to time.

2. “Employee” means any person in the service of a public utility.

3. “Labor organization” means any organization of employees which exists for the purpose, in whole or in part, of

collective bargaining or of dealing with employers concerning terms, tenure, or conditions of employment.

4. "Representative" means any person or persons, labor organization, organization or corporation designated either by a public utility or by employees to act for it or them.

5. "Dispute" and "labor dispute" include but are not restricted to any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment.

6. "Lockout" means the refusal of a public utility to furnish work to employees as a result of a labor dispute.

7. "Strike" means the temporary stoppage of work by the concerted action of two or more employees as a result of a labor dispute.

8. "Director" means the director of labor and industrial relations.

9. "Chapter 259B" means chapter 259B of the Revised Laws of Hawaii 1935, enacted by Act 237 of the Session Laws of Hawaii 1939.

[Sec. 7919CB.] Section 2. [Declaration of legislative intent.] It is hereby declared as the public policy of this Territory that the best interests of the people are served by the prevention or prompt and orderly settlement of labor disputes affecting public utilities; that lockouts or strikes involving public utilities and their employees, regardless of where the merits of the controversy lie, are detrimental to the interests and the rights of users, consumers and the public; that the interests and the rights of users, consumers and the public, while not direct parties thereto, should always be considered and protected; and that the voluntary mediation of such disputes under the auspices and supervision of the government will tend to promote their prompt and orderly settlement and the health, welfare, comfort and safety of the people of the Territory.

[Sec. 7919CC.] Section 3. [Duty to avoid lockouts, strikes.] In order to avoid any interruption of service to users, consumers or the public or to the operation of any public utility, it shall be the duty of any public utility and the employees and their respective representatives to settle all disputes between the public utility and the employees thereof without lockout or strike.

[Sec. 7919CD.] Section 4. [Notice in case of dispute.] In case of a dispute between a public utility and its employees, it shall be the duty of whichever of the two de-

sires any change, or makes any demand, or claims to be aggrieved, to give written notice to the other, and to the director, of a desire to confer in respect to such dispute. Notice by the public utility shall be signed by it or its duly authorized officer or representatives; and notice by employees shall be signed by their representatives. The notice shall identify the dispute and state the desire to confer.

[Sec. 7919CE.] Section 5. **[Time and place of conference.]** It shall be the duty of the director within two days after the receipt of the notice provided for in section 4 to specify a time and place at which the conference shall be held, provided, that the time shall not exceed five days from the receipt of such notice, and that the place shall be within the Territory and, in the absence of agreement, in the county in which the public utility operates its public utility business or, if it operates such business in more than one county, in Honolulu.

[Sec. 7919CF.] Section 6. **[Disputes to be settled if possible.]** It shall be the duty of the representatives designated and authorized to confer by the public utility and by the employees thereof interested in the dispute to meet at the time and place designated pursuant to section 5 of this Act, to confer with each other concerning such dispute, to endeavor in good faith to reach a settlement, and, if possible, to decide and settle the dispute with all expedition.

[Sec. 7919CG.] Section 7. **[Board of mediation to act when, procedure.]** In the event that the public utility and the employees thereof interested in any dispute (hereafter in this section and section 8 referred to as "the parties to the dispute") are unable to settle the dispute and the public utility proposes or intends to declare or cause a lockout or the employees interested in the dispute propose or intend to go on strike, on account of any such dispute, the party to the dispute intending to institute a lockout or strike, as the case may be, shall first give written notice of such intention of impending lockout or strike to the director, whereupon the director shall, within three days after receipt of such notice, appoint a board of mediation under section 12 of chapter 259B.

The board of mediation shall promptly put itself in communication with the parties to the dispute, and shall investigate the facts as to the controversy and use its best efforts, by mediation, to bring them to agreement. If such efforts to bring about an amicable settlement through mediation shall be unsuccessful, the said board shall at once endeavor as its

final required action (except as provided in the next paragraph of this section) to induce the parties to submit their controversy to arbitration in accordance with the provisions of said section 12.

The board of mediation shall make written report, together with its recommendations, to the director with all reasonable dispatch and not later than twelve days from the date of its creation; provided, however, that the twelve-day period so prescribed may be extended, from time to time, by and with the written consent of the parties to the dispute. Each such consent shall be immediately filed with the director.

Prior to the appointment of the board of mediation, while it is performing its duties and until twelve days after the receipt of the board's report by the director, unless in the said intervening period of twelve days an emergency board shall be created under section 8 of this Act, no change, except by agreement, shall be made by the parties to the dispute in the conditions out of which the dispute arose and, during such time, no lockout or strike shall be instituted.

The employer involved in the dispute shall not hire, during the aforementioned period, any new employee except those approved by the director as necessary to the normal conduct of the employer's business.

Upon receipt by the director of the report of the board of mediation, he shall immediately advise the governor of its contents.

[Sec. 7919CH.] Section 8. [Emergency board, appointment, duties.] If a dispute between a public utility and its employees interested therein be not adjusted and settled under the foregoing provisions of this Act, the governor may appoint an emergency board under section 12 of chapter 259B. Such board shall perform the duties prescribed in said section 12, and shall make its report, together with its recommendations, to the governor with all reasonable dispatch and in any event not later than ten days from the date of its creation, and shall forthwith make such report public.

After the creation of such board and for twelve days after such board has made its report to the governor, no change, except by agreement, shall be made by the parties to the dispute in the conditions out of which the dispute arose and, during such time, no lockout or strike shall be instituted.

Any expenses incurred by the director, any board or any officer under the provisions of section 7 or section 8 of this Act shall be paid out of funds appropriated for the department of labor and industrial relations.

[Sec. 7919CI.] Section 9. [Powers of boards, evidence,

witnesses, etc.] Any board of mediation or emergency board shall have power to hold public or private hearings at any place within the Territory, subpoena witnesses and compel their attendance, compel the production of books and papers, administer oaths, take testimony and receive evidence. Subpoenas may be issued only after the mediation of a dispute shall have been actually undertaken.

(a) In case of contumacy or refusal to obey a subpoena issued to any person, the circuit court of any judicial circuit within the jurisdiction of which the inquiry is carried on, upon application by any such board, shall have jurisdiction to issue such person an order requiring such person to appear before any such board, to compel the production of papers, to produce evidence or to give testimony touching the matter in question. Failure to obey any such order may be punished by the court as a contempt thereof.

(b) Process and papers of the board may be served either personally or by registered mail or by radiogram or by leaving a copy thereof at the principal office or place of business of the person to be served. Return by the individual serving the same setting forth the manner of such service, return post office receipt or radiogram receipt therefor, shall be proof of service of the same.

[Sec. 7919CJ.] Section 10. [Penalties.] Any person failing, neglecting or refusing to give the notice as in section 4 provided, or to meet or to confer as in section 6 provided, or to give the notice as in section 7 provided, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars or imprisonment not exceeding three months.

Any public utility declaring or causing a lockout contrary to the provisions of this Act shall be guilty of a misdemeanor and shall be punished by a fine of not more than five thousand dollars, or by imprisonment for not more than six months.

Any employee who goes on a strike contrary to the provisions of this Act shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than six months.

The penalties provided by this section shall apply to any individual, person, corporation or association whether acting as principal, agent, officer, director, for himself or itself or for another person.

[Sec. 7919CK.] Section 11. [Employee need not work involuntarily.] Nothing in this Act shall be construed to require an individual employee to render labor or service with-

out his consent, nor shall anything in this Act be construed to make the quitting of his labor or service by an individual employee an illegal act.

[**Sec. 7919CL.**] Section 12. [**Labor organizations, collective bargaining.**] Nothing in this Act shall be construed to impair, curtail or destroy the rights of employees and their representatives to self-organization, to form, join, or assist labor organizations, to bargain collectively, through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection; provided, however, that in so doing the provisions of this Act, when applicable, shall be followed and complied with.

[**Sec. 7919CM.**] Section 13. [**Law as exercise of police power.**] This Act shall be deemed an exercise of the police power of the Territory for the protection of the public welfare, safety, prosperity, health and peace of the people; and all of the provisions of the Act shall be liberally construed for the accomplishment of said purposes.

[**Sec. 7919CN.**] Section 14. [**Severability.**] If any provision of this Act, or the application of any provision to any person or circumstance, shall be held invalid, the remainder of the Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

If any section, sentence, clause or phrase of this Act is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act. The legislature hereby declares that it would have approved this Act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, clauses or phrases be declared unconstitutional or invalid.

Section 15. All laws or parts of laws inconsistent herewith are hereby repealed.

[**Sec. 7919CO.**] Section 16. [**Title.**] This Act may be cited as the "Hawaii Public Utility Labor Act."

Section 17. This Act shall take effect upon its approval.

(Approved May 14, 1941.) **S.B. 126, Act 240.**

**RESIDENCE REQUIREMENT, EMPLOYEES OF PUBLIC
UTILITY COMPANIES.**

[D-246] An Act Providing for Three Years Residence Requirements for All Employees and Officers of Public Utilities.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 7919DD.] Section 1. [Three years residence required.] All officers and employees in the service of any public utility shall be residents of the territory for at least three years immediately preceding their appointment, provided, however, that in cases where it is not reasonably practicable to obtain persons with the foregoing qualification competent for such service, persons without such qualification may be employed until persons with such qualification competent for such service can be obtained, and provided, further, that the above provision shall not apply to any officer or employee now in the service of any public utility.

Section 2. This Act shall take effect upon its approval.

(Approved May 20, 1941.) **H.B. 93, Act 303.**

**CHAPTER 260. RETIREMENT
SYSTEM.**

[D-247] An Act Amending Chapter 260 of the Revised Laws of Hawaii 1935, as Amended, Relating to the Retirement System.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 260 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding a new section thereto, designated section 7925A, which shall read as follows:

“Sec. 7925A. [Evidence of age of members required.] Upon an employee first becoming a member of the system, he shall present evidence of his age in the form of a public record of his birth or church baptismal record or such affidavits by the member and other persons as the board may require

to show that such records are not available and to show the date upon which the member was born.

No statement or record of age or birth made or presented by a member of the system, whether prior or subsequent to the effective date of this Act, may be impeached by such member or his successors in interest."

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1941.) **S.B. 131, Act 225.**

[D-248] An Act to Amend Section 7926 of the Revised Laws of Hawaii 1935, Relating to the Management of Retirement System Funds.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 7926** of the Revised Laws of Hawaii 1935, as amended by Act 5 of the Session Laws of Hawaii 1939, is hereby further amended by amending subparagraph VIII of paragraph 1 (b) thereof, to read as follows:

"VIII. Notes or bonds secured by mortgages insured by the Federal Housing Administrator and in securities issued by national mortgage associations organized under Title III of the Act of Congress, entitled 'National Housing Act';".

Section 2. This Act shall take effect upon its approval.

(Approved April 18, 1941.) **H.B. 335, Act 50.**

[See also, following Act amending **Sec. 7926.**]

[D-249] An Act to Amend Section 7926 of the Revised Laws of Hawaii 1935, as Amended by Act 5 of the Session Laws of Hawaii 1939, to Make Eligible the Investment of Funds of the Employees' Retirement System in Certain Securities.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. **Section 7926** of the Revised Laws of Hawaii

1935, as amended by Act 5 of the Session Laws of Hawaii 1939, is hereby further amended by adding to paragraph 1 (b) thereof a new sub-paragraph, to be designated X and to read as follows:

“X. Preferred stocks of the following corporations:

American Can Company

American Tobacco Company

Consolidated Gas, Electric Light and Power of Baltimore

Corn Products Refining Company

E. I. DuPont de Nemours

Eastman Kodak Company

General Foods Corporation

General Motors Corporation

Hawaiian Electric Company, Limited

International Harvester Company

Liggett & Myers Tobacco Company

Pacific Gas & Electric Company

Philadelphia Electric Company

provided, however, that said preferred stocks shall be cumulative as to dividends, and provided, further, that the capital stock of the corporation issuing preferred stocks equals at least one-third of its funded indebtedness and also, that said corporation, for the three years preceding the date of the investment, has regularly paid all interest charges on its funded indebtedness, and for that period has regularly earned, after deducting all proper charges, at least three per centum upon all issues of its paid up capital stock, including both preferred and common stock, and provided further, that the total investment in qualified preferred stocks shall at no time exceed five per centum of the total book value of all investments of the system.”

Section 2. This Act shall take effect upon its approval.

(Approved April 21, 1941.) **H.B. 238, Act 61.**

**CHAPTER 260A. UNEMPLOYMENT
COMPENSATION LAW.**

Amended 12/67
D-250 Act 304

[D-250] An Act Amending Act 243 (Series D-167) of the Session Laws of Hawaii 1937, as Amended by Act 213 (Series A-34) of the Session Laws of Hawaii 1939, and by Act 219 (Series D-185) of the Session Laws of Hawaii 1939, and by Act 237 (Series D-183) of the Session Laws of Hawaii 1939, Relating to Unemployment Compensation; and Amending All Inconsistent Laws to Conform Thereto.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 243 (Series D-167) of the Session Laws of Hawaii 1937, as amended by Act 213 (Series A-34) of the Session Laws of Hawaii 1939, and by Act 219 (Series D-185) of the Session Laws of Hawaii 1939 and by Act 237 (Series D-183) of the Session Laws of Hawaii 1939, is hereby further amended in the following respects:

1. By amending **section 2 (b)** thereof to read as follows:

“(b) ‘Referee’ means the referee for unemployment compensation appeals, and until July 1, 1941, shall also include the industrial accident boards of the counties of Hawaii, Maui and Kauai, and the labor and industrial relations appeal board, with respect to appeals pending before said boards pursuant to Act 237 (Series D-183) of the Session Laws of Hawaii 1939.”

2. By amending **section 2 (c)** thereof to read as follows:

“(c) ‘Board’ and ‘unemployment compensation board’ and ‘territorial board’ each means the commission of labor and industrial relations as provided in section 2 of chapter 259B of the Revised Laws of Hawaii 1935, as enacted by Act 237 of the Session Laws of Hawaii 1939.”

3. By amending **section 2 (f)** thereof to read as follows:

“(f) ‘Benefit year’ with respect to any individual means the one-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits and thereafter the one-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with section 6 (b) of this Act shall be deemed a ‘valid claim’ for the purpose of this subsection if the individual has been paid the wages for insured work required under section 4 (e) of this Act. For the purposes of this subsection a week with respect to which an individual

files a valid claim shall be deemed to be 'in', 'within', or 'during' that benefit year which includes the greater part of such week."

4. By amending **section 2 (g)** thereof to read as follows:

"(g) 'Contributions' means the money payments required by this Act to be made into the territorial unemployment compensation fund by any employing unit on account of having individuals in its employ."

5. By amending **section 2 (h)** thereof to read as follows:

"(h) 'Calendar quarter' means the period of three consecutive-calendar months ending on March 31, June 30, September 30, or December 31, or the equivalent thereof, as the board may by regulation prescribe."

6. By amending **section 2 (i)** thereof to read as follows:

"(i) 'Employing unit' means any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor of any of the foregoing, or the legal representative of a deceased person, which has or subsequent to January 1, 1937, had one or more individuals performing services for it within this territory.

(1) All individuals performing services within this territory for any employing unit which maintains two or more separate establishments within this territory shall be deemed to be performing services for a single employing unit for all the purposes of this Act.

(2) Whenever any employing unit contracts with or has under it any contractor or subcontractor for any work which is part of its usual trade, occupation, profession, or business, unless the employing unit as well as each such contractor or subcontractor is an employer by reason of section 2 (j) of this Act, the employing unit shall for all the purposes of this Act be deemed to employ each individual in the service of each such contractor or subcontractor for each day during which such individual is engaged solely in performing such work; except that each such contractor or subcontractor who is an employer by reason of section 2 (j) of this Act shall alone be liable for the employer's contributions measured by wages to individuals in his service.

(3) Each individual employed to perform or to assist in performing the work of any person in the service of an employing unit shall be deemed to be engaged by such employing unit for all the purposes of this Act, whether such individual was hired or paid directly by such employing unit or by such

person, provided the employing unit had actual or constructive knowledge of the work.”

7. By amending **section 2 (j)** thereof to read as follows:

“(j) ‘Employer’ means:

(1) Any employing unit which for some portion of a day in each of twenty different calendar weeks, whether or not such weeks are or were consecutive, within either the current or the preceding calendar year (and for the purpose of this definition if any week includes both December 31 and January 1 the days up to January 1 shall be deemed one calendar week and the days beginning January 1 another such week), has or had in employment one or more individuals (irrespective of whether any such individual was employed on each such day); or

(2) Any individual or employing unit which acquired the organization, trade, or business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this Act; or

(3) Any individual or employing unit which acquired the organization, trade, or business, or substantially all the assets thereof, of another employing unit, if the employment record of such individual or employing unit subsequent to such acquisition, together with the employment record of the acquired unit prior to such acquisition, both within the same calendar year, would be sufficient to constitute an employing unit an employer subject to this Act under paragraph (1) of this subsection; or

(4) Any employing unit which, having become an employer under paragraphs (1), (2), or (3), has not, under section 8, ceased to be an employer subject to this Act; or

(5) For the effective period of its election pursuant to section 8 (c), any other employing unit which has elected to become subject to this Act; or

(6) Any employing unit not an employer by reason of any other paragraph of this subsection for which services in employment are performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund; but services performed for such employing unit shall constitute employment for the purposes of this Act only to the extent that such services constitute employment with respect to which such federal tax is payable.”

8. By amending **section 2 (k)** thereof to read as follows:

“(k) (1) ‘Employment’, subject to the other provisions of this subsection, means service, including service in inter-

state commerce, performed for wages or under any contract of hire, written or oral, express or implied.

(2) The term 'employment' shall include an individual's entire service, performed within or both within and without this Territory if—

(A) the service is localized in this territory; or

(B) the service is not localized in any state but some of the service is performed in this territory and (i) the individual's base of operation, or, if there is no base of operation, then the place from which such service is directed or controlled, is in this territory; or (ii) the individual's base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this territory.

(3) (A) Services covered by an election pursuant to section 8 (c) of this Act, and

(B) services covered by an arrangement pursuant to section 17 of this Act between the board and the agency charged with the administration of any other state or federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this territory, shall be deemed to be employment if the board has approved an election of the employing unit for which such services are performed, pursuant to which the entire service of such individual during the period covered by such election is deemed to be insured work.

(4) Service shall be deemed to be localized within a state, if—

(A) the service is performed entirely within such state; or

(B) the service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) Services performed by an individual for wages or under any contract of hire shall be deemed to be employment subject to this Act irrespective of whether the common-law relationship of master and servant exists unless and until it is shown to the satisfaction of the board that—

(A) such individual has been and will continue to be free from control or direction over the performance of such service, both under his contract of hire and in fact; and

(B) such service is either outside the usual course of the business for which such service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(C) such individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the contract of service.

(6) The term 'employment' shall not include the following service:

(A) agricultural labor as defined in paragraph (8) of this subsection;

(B) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority;

(C) casual labor not in the course of the employing unit's trade or business;

(D) service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(E) service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(F) service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this Act, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this Act shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; provided that if this territory shall not be certified for any year by the social security board under section 1603 (c) of the Federal Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded by the board from the fund in the same manner and within the same period as is provided in section 9 (e) of this Act with respect to contributions erroneously collected;

(G) service performed in the employ of this territory or of any other state, or of any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by this territory or by one or more states or political subdivisions; and any service performed in the employ of any instrumentality of one or more states or political subdivisions to the extent that the instrumentality is, with respect to such service, exempt under the Constitution of the United States from the tax imposed by section 1600 of the Federal Internal Revenue Code;

(H) service with respect to which unemployment compensation is payable under an unemployment system established by an Act of Congress;

(I) service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation;

(J) (i) service performed in any calendar quarter in the employ of any organization exempt from income tax under section 101 of the Federal Internal Revenue Code, if (I) the remuneration for such service does not exceed \$45, or (II) such service is in connection with the collection of dues or premiums for a fraternal beneficiary society, order, or association, and is performed away from the home office, or is ritualistic service in connection with any such society, order, or association, or (III) such service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university;

(ii) service performed in the employ of an agricultural or horticultural organization exempt from income tax under section 101 (1) of the Federal Internal Revenue Code;

(iii) service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (I) no part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (II) eighty-five per centum or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses;

(iv) service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if (I) admission to membership in such association is limited to individuals who are officers or employees of the United States government, and (II) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual;

(v) service performed in any calendar quarter in the employ of a school, college, or university, not exempt from income tax under section 101 of the Federal Internal Revenue

Code, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university, and the remuneration for such service does not exceed \$45 (exclusive of room, board, and tuition);

(K) service performed in the employ of a foreign government (including service as a consular or other officer or employee or a non-diplomatic representative);

(L) service performed in the employ of an instrumentality wholly owned by a foreign government—

(i) if the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and

(ii) if the United States Secretary of State has certified or shall certify to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;

(M) service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an interne in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to state law;

(N) service performed by an individual for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such employing unit is performed for remuneration solely by way of commission;

(O) service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution; or

(P) service covered by an arrangement between the board and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by such employing unit's duly approved election, are deemed to be performed entirely within such agency's state;

(Q) any service which, pursuant to an Act of Congress enacted subsequent to April 1, 1941, is not included as 'employment' for the purposes of the tax levied by the Federal

Unemployment Tax Act, so long as and whenever such service is not so included.

Provided that none of the exclusions (A) to (P), inclusive, set forth in this paragraph (6), shall apply to any service or labor which is included as 'employment' for the purposes of the tax levied by the Federal Unemployment Tax Act, so long as and whenever such service or labor is so included.

(7) **Included and excluded service.** If the services performed during one-half or more of any pay period by an individual for the person employing him constitute employment, all the services of such individual for such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period by an individual for the person employing him do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subsection the term 'pay period' means a period (of not more than thirty-one consecutive days) for which a payment of remuneration is ordinarily made to the individual by the person employing him. This subsection shall not be applicable with respect to services performed in a pay period by an individual for the person employing him, where any of such service is excepted by section 2 (k) (6) (H).

(8) **Agricultural labor.** The term 'agricultural labor' includes all services performed—

(A) on a farm, in the employ of any person in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of live stock, bees, poultry, and fur-bearing animals and wild life;

(B) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(C) in connection with the production or harvesting of maple syrup or maple sugar or any commodity defined as an agricultural commodity in section 15 (g) of the federal agricultural marketing Act, as amended, or in connection with the raising or harvesting of mushrooms, or in connection with the hatching of poultry, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes; or

(D) in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market. The provisions of this subparagraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

As used in this paragraph (8), the term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities and orchards."

9. By amending **section 2 (l)** thereof to read as follows:

"(l) 'Employment office' means a free public employment office or branch thereof operated by this territory or any other state as a part of a state-controlled system of public employment officers or by a federal agency charged with the administration of an unemployment compensation program or free public employment offices."

10. By amending **section 2 (m)** thereof to read as follows:

"(m) 'Fund' means the unemployment compensation fund established by this Act."

11. By amending **section 2 (o)** thereof to read as follows:

"(o) 'Unemployment'. An individual shall be deemed 'unemployed' in any week during which he performs no services and with respect to which no wages are payable to him, or in any week of less than full time work if the wages payable to him with respect to such week are less than his weekly benefit amount. The board shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to total unemployment, part-total unemployment, partial unemployment, of individuals attached to their regular jobs, and other forms of short-time work, as the board deems necessary. 'Week of unemployment' means a week in which an individual is deemed unemployed as aforesaid."

12. By amending **section 2 (p)** thereof to read as follows:

"(p) (1) 'Wages', subject to the other provisions of this subsection, means all remuneration for services from whatever source, including commissions and bonuses and the cash value

of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the board.

(2) The term 'wages' shall not include:

(A) the amount of any payment to, or on behalf of, an individual in its employ under a plan or system established by an employing unit which makes provision for individuals in its employ generally or for a class or classes of such individuals (including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment), on account of (i) retirement, or (ii) sickness or accident disability, or (iii) medical and hospitalization expenses in connection with sickness or accident disability, or (iv) death, provided the individual in its employ (I) has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premiums (or contributions to premiums) paid by his employing unit, and (II) has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his services with such employing unit;

(B) the payment by an employing unit (without deduction from the remuneration of the individual in its employ) of the tax imposed upon an individual in its employ under section 1400 of the Federal Internal Revenue Code;

(C) dismissal payments which the employing unit is not legally required to make; or

(D) payments, not required under any contract of hire, made to an individual with respect to his period of training or service in the armed forces of the United States by any employing unit by which such individual was formerly employed;

(E) any remuneration which, pursuant to an Act of Congress enacted subsequent to April 1, 1941, is not included as 'wages' for the purposes of the tax levied by the Federal Unemployment Tax Act, so long as and whenever such remuneration is not so included.

Provided that none of the exclusions (A) to (D) inclusive, set forth in this paragraph (2), shall apply to any remuneration which is included as 'wages' for the purposes of the tax

levied by the Federal Unemployment Tax Act, so long as and whenever such remuneration is so included."

13. By amending **section 2 (q)** thereof to read as follows:
“(q) ‘Week’ means any period of seven consecutive days as the board may by regulation prescribe.”

14. By adding two new subsections to **section 2** thereof, to be designated as **subsections (t) and (u)** and to read as follows:

“(t) ‘Federal Unemployment Tax Act’ means Title IX of the Federal Social Security Act and Subchapter C of Chapter 9 of Subtitle B of the Federal Internal Revenue Code in accordance with the provisions thereof in effect from time to time, and also means any other federal statutes, successor to the foregoing, which provide for the levy of taxes against which credit may be allowed for contributions required to be paid into a state unemployment compensation fund, in accordance with the provisions thereof in effect from time to time.

“(u) ‘Social security board’ means the federal social security board established by Title VII of the Federal Social Security Act.”

15. By amending section 3 thereof to read as follows:

“Section 3. (a) **Benefits payable.** Benefits shall become payable under this Act for unemployment occurring on and after January 1, 1939; provided that wages earned for services defined in section 2 (k) (6) (H) of this Act, irrespective of when performed, shall not be included for purposes of determining eligibility, under section 4 (e) or weekly benefit amount, under subsection (c) of this section, for the purposes of any benefit year commencing on or after July 1, 1939, nor shall any benefits with respect to unemployment occurring on and after July 1, 1939, be payable under subsection (e) of this section on the basis of such wages.

(b) **Payment of benefits.** All benefits provided herein shall be payable from the fund. All benefits shall be paid through employment offices, in accordance with such regulations as the board may prescribe.

(c) **Weekly benefit amount.** An individual's weekly benefit amount shall be the amount appearing in column B in the table in this subsection on the line on which, in column A of such table, there appears the total wages paid to such individual for insured work in that quarter of his base period in which such total wages were highest.

COLUMN A	COLUMN B	COLUMN C	COLUMN D
Wages paid in highest quarter of base period.	Weekly benefit amount.	Qualifying wages paid in base period.	Maximum total benefits in benefit year.
\$ 37.50—125.00	\$ 5.00	\$150.00	\$100.00
125.01—150.00	6.00	180.00	120.00
150.01—175.00	7.00	210.00	140.00
175.01—200.00	8.00	240.00	160.00
200.01—225.00	9.00	270.00	180.00
225.01—250.00	10.00	300.00	200.00
250.01—275.00	11.00	330.00	220.00
275.01—300.00	12.00	360.00	240.00
300.01—325.00	13.00	390.00	260.00
325.01—350.00	14.00	420.00	280.00
350.01—375.00	15.00	450.00	300.00
375.01—400.00	16.00	480.00	320.00
400.01—425.00	17.00	510.00	340.00
425.01—450.00	18.00	540.00	360.00
450.01—475.00	19.00	570.00	380.00
475.01—500.00	20.00	600.00	400.00
500.01—and over	20.00	600.00	400.00

(d) **Weekly benefit for unemployment.** Each eligible individual who is unemployed, as defined in section 2 (o), in any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount less the wages (if any) payable to him with respect to such week. Such benefit, if not a multiple of \$1.00, shall be computed to the next higher multiple of \$1.00. No individual shall be entitled to any benefit with respect to any week unless he is unemployed, as defined in section 2 (o), in such week.

(e) **Duration of benefits.** Any otherwise eligible individual shall be entitled during any benefit year to the amount appearing in column D of the schedule in subsection (c) of this section, on the line on which, in column B of said schedule, appears his weekly benefit amount.

(f) **Benefits after termination of military service.**

(1) Notwithstanding any inconsistent provisions of this Act the benefit rights of trainees shall be determined in accordance with the following provisions of this subsection for the periods and with respect to the matters specified herein. Except as herein otherwise provided, all other provisions of this Act shall continue to be applicable in connection with such benefits.

(2) The term 'military service' as used in this subsection means active service in the land or naval forces of the United States, but the service of an individual in any reserve component of the land or naval forces of the United States who is ordered to active duty in any such force for a period of thirty days or less shall not be deemed to be active service in such force during such period.

(3) The term 'trainee' as used in this subsection means an individual who entered military service after June 30, 1940, who continued such service for not less than ninety consecutive days, and whose military service was terminated on or before June 30, 1943.

(4) With respect to any trainee, the first benefit year following the termination of his military service shall be the one year period beginning on the day next following the date of such termination.

(5) (A) With respect to a benefit year as defined in paragraph (4) of this subsection, the base period of a trainee with respect to whom a benefit year had been current upon the date of his entry into military service shall be the base period applicable to such benefit year plus all completed and uncompleted calendar quarters occurring subsequent to the last day of such base period but prior to the date of his entry into military service, and the base period of a trainee with respect to whom no benefit year was current upon the date of his entry into military service shall be the four completed calendar quarters immediately preceding the date of his entry into such service and the uncompleted calendar quarter, if any, subsequent to the last day of such four completed calendar quarters but prior to the date of his entry into such service.

(B) With respect to the first benefit year as defined in section 2 (f), which commences subsequent to the date of termination of a trainee's period of military service but within the five completed calendar quarters next succeeding such date of termination, the base period shall be all completed and uncompleted calendar quarters occurring subsequent to such date of termination and prior to the first day of such next following benefit year, exclusive, however, of the completed calendar quarter and the uncompleted calendar quarter, if any, immediately preceding the first day of such next following benefit year; but if the base period with respect to any such next following benefit year as defined in section 2 (f) includes less than four calendar quarters (and for the purposes of this exception an uncompleted calendar quarter shall be deemed to be a completed calendar quarter) (i) the maximum total amount of benefits otherwise payable with respect to such next

following benefit year shall be increased by the difference, if any, between the maximum total amount of benefits payable with respect to the trainee's benefit year as defined in paragraph (4) of this subsection and the total amount of benefits actually paid with respect to the same benefit year provided that the total amount of benefits so payable with respect to such next following benefit year shall not exceed the amount provided in subsection (e) of this section, and (ii) the qualifying wage requirement for such next following benefit year shall be an amount having the same relation to the amount provided in section 4 (e) as the number of calendar quarters in such base period bears to four.

(6) The provisions of section 4 (d) of this Act with respect to waiting period shall not be applicable to a benefit year as defined in paragraph (4) of this subsection.

(7) An otherwise eligible trainee shall be entitled during a benefit year as defined in paragraph (4) of this subsection to a total amount of benefits equal to the product obtained by multiplying his weekly benefit amount by five times the number of completed and uncompleted calendar quarters included within the base period applicable to such benefit year, except that such total amount of benefits shall be reduced by the total amount of benefits, if any, paid to him with respect to weeks of unemployment beginning within the benefit year, if any, current as of the date of his entry into military service.

(8) The provisions of section 5 shall not be applied to any trainee after the termination of his military service, by reason of any act or course of action on his part prior to the date of his entry into such service.

(9) If under an Act of Congress, payments with respect to the unemployment of individuals who have completed a period of military service are payable by the United States, a trainee shall be disqualified for benefits with respect to any week beginning within a benefit year as defined in paragraph (4) of this subsection until he has exhausted all his rights to such payments from the United States.

(g) **Seasonal workers.** (1) As used in this subsection:

(A) The term 'seasonal pursuit' means an industry, or an occupation within an industry, in which, because of the seasonal nature of the operations of such industry or of such occupation, it is customary in each year, as shown in any year by experience in such industry or in such occupation in the preceding three years, (i) for volume of employment in this territory in such industry or in such occupation to be substantially increased during, or for employment in this territory

in such industry or in such occupation to be limited to, a regularly recurring period or periods of seasonal activity, of less than an aggregate of twenty-six weeks in a year, and (ii) for employment in this territory in such industry or in such occupation, measured in terms of man-hours per week, to be, during not less than twenty-six different weeks in the year, which weeks need not be consecutive, at rates lower than thirty per centum of the average of the rates of employment in this territory in such industry or occupation, so measured, during the twelve consecutive weeks in the year in which employment in this territory in such industry or occupation, so measured, is the highest for any period of twelve consecutive weeks in the year; provided that no occupation shall be a seasonal pursuit unless and until the board shall so determine; and provided further that whenever any industry qualifies as a seasonal pursuit under the provisions of this subsection the whole of such industry shall be a seasonal pursuit unless the board shall determine that any occupation or occupations in such industry is or are a seasonal pursuit or seasonal pursuits; and provided further that whenever the board shall determine that an occupation or occupations within an industry is or are a seasonal pursuit or seasonal pursuits, then the remainder of said industry will be a seasonal pursuit if, and will not be a seasonal pursuit unless, without consideration of such occupation or occupations, it would qualify as a seasonal pursuit under the provisions of this subparagraph. An occupation may be a seasonal pursuit whether or not the industry of which it is a part could qualify as a seasonal pursuit. Periods of seasonal activity in an industry or in an occupation shall be considered as 'regularly recurring', within the meaning of this subparagraph, notwithstanding that the opening and closing dates thereof may vary from year to year and notwithstanding that the opening and closing dates thereof in any year or years may vary as among employers in the industry or occupation, so long as such variations shall not be of sufficient extent to establish that operations in such industry or in such occupation are not of a seasonal nature.

(B) The term 'industry' has the same meaning as in the Industrial Classification Code of the Social Security Board, except that when the board finds that any industry as listed in said Industrial Classification Code includes any employer or group or groups of employers in this territory which is or are distinct in the nature of its or their operations from other employers in this territory in such industry as so listed, the board shall make an appropriate subclassification of such industry as so listed, and in such case the term 'industry' as used

in this subsection shall mean any employer or group or groups of employers as established by such subclassification.

(C) The term 'occupation' means a class of employment in an industry, where the workers in such class of employment are engaged in the same type or related types of work or where the workers in such class of employment are engaged in services in connection with a single agricultural, industrial, commercial or other operation or in a series or group of such operations which are closely related as determined by the board.

(D) The term 'seasonal employer' means an employer in a seasonal pursuit. If any industry, or if any occupation within any industry, is a seasonal pursuit, then any employer in such industry is in a seasonal pursuit. The qualification of an industry or an occupation as a seasonal pursuit shall be determined on the basis of variations, as provided in subparagraph (A) of this paragraph (1), in employment in the whole of such industry or such occupation, in this territory, considering the experience of all of the employers in such industry or such occupation, in this territory, taken collectively; and if any industry or occupation is a seasonal pursuit within the meaning of this subsection then any employer therein is a seasonal employer.

(E) The term 'seasonal worker' means an individual who during his base period has been paid wages in employment in a seasonal pursuit by a seasonal employer; provided, however, that no individual shall be a seasonal worker unless the wages paid to him during his base period for seasonal employment were in excess of twenty-five per centum of the total wages paid to him during his base period for all insured work, including seasonal employment.

(F) The term 'seasonal period' and 'seasonal periods' for any year for a seasonal employer in a seasonal pursuit means the period or periods of seasonal operations in such seasonal pursuit by such seasonal employer during such year. Such seasonal period or seasonal periods shall be determined by the board in accordance with the provisions of subparagraph (4) (B) of this subsection.

(G) The term 'seasonal employment' means employment in a seasonal pursuit by a seasonal employer during a seasonal period or seasonal periods for such employer in such seasonal pursuit.

(H) The term 'non-seasonal employment' means employment in a seasonal pursuit by a seasonal employer other than during a seasonal period or seasonal periods for such employer in such seasonal pursuit and also employment by a seasonal

employer where such employment is not in a seasonal pursuit and also employment by an employer who is not a seasonal employer.

(2) Wages paid to a seasonal worker for insured work during his base period shall be included in calculating his weekly benefit amount and the weekly benefit payable to him for unemployment pursuant to provisions of subsection (c) and (d) of this section 3 and in determining whether he is qualified for benefits under section 4 (e) of this Act, whether or not all or a portion of such wages has been for seasonal employment.

(3) Where a seasonal worker has been paid wages during his base period for seasonal employment in a seasonal pursuit by a seasonal employer, the maximum amount of benefits to which he shall be entitled during his benefit year on the basis of such seasonal employment shall be that proportion of the total amount of benefits to which he would be entitled during such benefit year pursuant to the provisions of subsection (e) of this section 3, were it not for the provisions of this subsection (g), which the wages paid to him during his base period for such seasonal employment bear to the total of the wages paid to him during his base period for all insured work, including such seasonal employment; provided that such maximum amount of benefits on the basis of such seasonal employment, if not a multiple of \$1, shall be computed to the next higher multiple of \$1; and such maximum amount of benefits shall be payable only for unemployment which occurs during a seasonal period or seasonal periods in such seasonal pursuit for such seasonal employer. Where a seasonal worker has been paid wages during his base period for non-seasonal employment the maximum amount of benefits to which he shall be entitled during his benefit year on the basis of non-seasonal employment shall be the greater of (A) that proportion of the total amount of benefits to which he would be entitled pursuant to the provisions of subsection (e) of this section 3, were it not for the provisions of this subsection (g), which the wages paid to him during his base period for non-seasonal employment bear to the total of the wages paid to him during his base period for all insured work, including non-seasonal employment, and (B) one-third of his wages for insured work paid during his base period for non-seasonal employment; provided that such maximum amount of benefits on the basis of non-seasonal employment, if not a multiple of \$1, shall be computed to the next higher multiple of \$1; and such maximum amount of benefits shall be payable for unemployment which occurs at any time during the benefit year.

Where a seasonal worker is unemployed during a seasonal period in a seasonal pursuit for a seasonal employer and is entitled to benefits on the basis of seasonal employment in such seasonal pursuit by such seasonal employer and is also entitled to benefits on the basis of non-seasonal employment, the benefits paid to him for such unemployment shall be treated as benefits to which he is entitled on the basis of such seasonal employment until all of such benefits are exhausted, and any further benefits paid to him for such unemployment shall be treated as benefits to which he is entitled on the basis of non-seasonal employment. Where a seasonal worker is unemployed during a seasonal period in a seasonal pursuit or seasonal pursuits for two or more seasonal employers and is entitled to benefits on the basis of seasonal employment in such seasonal pursuit or seasonal pursuits by both or all of such seasonal employers, the benefits paid to him for such unemployment shall be treated as benefits to which he is entitled on the basis of such seasonal employment for said two or more seasonal employers in such manner as the board shall determine is fair and reasonable to all affected interests. The foregoing provisions of this paragraph (3) are subject to the limitation that no seasonal worker shall be entitled during any benefit year to receive benefits aggregating more than the total amount of benefits to which he is entitled during such benefit year in accordance with the provisions of subsection (e) of this section.

(4) (A) The board shall determine whether any industry or any occupation within an industry is a seasonal pursuit within the definition set forth in paragraph (1) of this subsection (g) and for that purpose the board may establish rules for the determination of the number of man-hours of employment in each week in any industry or occupation.

(B) The board shall determine in each year the seasonal period or seasonal periods in such year for each seasonal pursuit or for each seasonal employer therein. In case the board shall for any year determine that there is or will be the same seasonal period or seasonal periods for all of the seasonal employers in a seasonal pursuit, such seasonal period or seasonal periods shall for the purposes of this subsection (g) be the seasonal period or seasonal periods in such year for each seasonal employer in that seasonal pursuit. In case the board shall for any year determine that there are or will be different periods of seasonal activity for various employers within a seasonal pursuit, on account of differences in climatic conditions or in the ripening periods of perishable agricultural commodities processed by them, or for any other reasons, then the board shall determine the seasonal period or seasonal peri-

ods for such year for each of the seasonal employers in that seasonal pursuit. Any seasonal period for a seasonal pursuit or for any seasonal employer in a seasonal pursuit and the opening and closing dates thereof shall be determined by the board on the basis of the period or anticipated period of seasonal activity in such seasonal pursuit or by such seasonal employer. The board shall determine the opening and closing dates of any seasonal period in any seasonal pursuit or for any seasonal employer prior to the opening date thereof.

(C) The board may at any time, on the basis of changed conditions or new facts discovered since the original determination or in order to correct any error, reconsider its determination with respect to the seasonality of any industry or occupation or with respect to any seasonal period or seasonal periods for any seasonal pursuit or for any seasonal employer therein, and in case of such reconsideration the board may either affirm, amend or rescind its original determination.

(D) Any determination or redetermination made pursuant to the provisions of this paragraph (4) may be upon the initiative of the board or upon the receipt of application from any employer or seasonal worker and after fair notice and opportunity for hearing has been afforded to all employers and employees interested. Such fair notice shall consist of publication in a newspaper of general circulation and such other publicity as the board finds reasonably calculated to bring the matters under consideration to the attention of the employers and employees interested.

(E) Notice of each determination or redetermination made pursuant to the provisions of this paragraph (4) shall be published in a newspaper of general circulation and shall be given such other publicity as the board finds reasonably calculated to insure its being brought to the attention of employers and employees who may be affected by it. Certified copies of all determinations and redeterminations so published shall be maintained in the office of the board and shall be accessible for examination at all times during business hours."

16. By amending section 4 thereof to read as follows:

"Section 4. **Qualification for benefits.** An unemployed individual shall be eligible to receive benefits with respect to any week only if the board finds that—

(a) He has made a claim for benefits with respect to such week in accordance with such regulations as the board may prescribe.

(b) He has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the board may prescribe, except that the

board may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this Act; provided that no such regulation shall conflict with section 3 (b) of this Act.

(c) He is able to work and is available for work.

(d) He has been unemployed for a waiting period of one week. No week shall be counted as a week of unemployment for the purposes of this subsection:

(1) Unless it occurs within the benefit year which includes the week with respect to which he claims payment of benefits, provided that this requirement shall not interrupt the payment of benefits for consecutive weeks of unemployment.

(2) If benefits have been paid with respect thereto.

(3) Unless the individual was eligible for benefits with respect thereto as provided in sections 4 and 5 of this Act, except for the requirements of this subsection and of subsections (e) and (f) of section 5.

(e) He has during his base period been paid wages for insured work equal to not less than the amount appearing in column C of the schedule in section 3 (c), on the line on which, in column B of said schedule, appears his weekly benefit amount. For the purposes of this subsection, wages shall be counted as 'wages for insured work' for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employing unit by which such wages were paid has satisfied the conditions of section 2 (j) with respect to becoming an employer."

17. By amending section 5 thereof to read as follows:

"Section 5. An individual shall be disqualified for benefits—

(a) For any week in which he has left his work voluntarily without good cause attributable to his employing unit and for not less than two or more than seven consecutive weeks of unemployment which immediately follow such week, as determined according to the circumstances in each case.

(b) For the week in which he has been discharged for misconduct connected with his work and for not less than two or more than seven consecutive weeks of unemployment which immediately follow such week, as determined in each case in accordance with the seriousness of the misconduct.

(c) If he has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the board or any duly authorized representative

of the board, or to accept suitable work when offered him. Such ineligibility shall continue for the week in which such failure occurred and for not less than two nor more than seven consecutive weeks of unemployment which immediately follow such week, as determined according to the circumstances of each case.

(1) In determining whether or not any work is suitable for an individual there shall be considered among other factors and in addition to those enumerated in paragraph (2) of this subsection, the degree of risk involved to his health, safety and morals, his physical fitness and prior training, his experience and prior earnings, the length of his unemployment, his prospects for obtaining work in his customary occupation, the distance of available work from his residence and prospects for obtaining local work. The same factors so far as applicable shall be considered in determining the existence of good cause attributable to an individual's employing unit for voluntarily leaving his work under subsection (a) of this section.

(2) Notwithstanding any other provisions of this Act, no work shall be deemed suitable and benefits shall not be denied under this Act to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(A) if the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(B) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(C) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) For any week with respect to which it is found that his unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed; provided that this subsection shall not apply if it is shown that—

(1) he is not participating in or directly interested in the labor dispute which caused the stoppage of work; and

(2) he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or directly interested in the dispute; provided that, if in any case separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises.

(e) For any week with respect to which he is receiving or has received remuneration in the form of a primary insurance benefit under Title II of the Social Security Act, as amended, or similar old age benefits under any Act of Congress.

(f) For any week with respect to which or a part of which he has received or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States; provided that, if the appropriate agency of such other state or of the United States finally determines that he is not entitled to such unemployment benefits, this ineligibility shall not apply."

18. By amending section 6 thereof to read as follows:

"Section 6. (a) **Posting of information.** Each employer shall post and maintain in places readily accessible to individuals in his employ printed statements concerning benefit rights, claims for benefits and such other matters relating to the administration of this Act as the board may by regulation prescribe. Each employer shall supply to such individuals copies of such printed statements or other materials relating to claims for benefits when and as the board may by regulation prescribe. Such printed statements and other materials shall be supplied by the board to each employer without cost to the employer.

(b) **Filing of claim.** Claims for benefits shall be made in accordance with such regulations as the board may prescribe.

(c) **Determinations.** (1) **In general.** A determination upon a claim filed pursuant to section 6 (b) shall be made promptly by a representative of the board authorized to make determinations upon claims and shall include a statement as to whether and in what amount the claimant is entitled to benefits for the week with respect to which the determination is made and, in the event of a denial, shall state the reasons therefor. A determination with respect to the first week of a benefit year shall also include a statement as to whether the claimant has been paid the wages required under section 4 (e) of this Act and, if so, the first day of the benefit year, his weekly benefit amount, and the maximum total amount of benefits payable to him with respect to such benefit year.

(2) **Redeterminations.** The board may reconsider a determination whenever it finds that an error in computation or identity has occurred in connection therewith, or that wages of the claimant pertinent to such determination but not considered in connection therewith, have been newly discovered, or that benefits have been allowed or denied or the amount of benefits fixed on the basis of misrepresentations of fact, but

no such redetermination shall be made after one year from the date of the original determination. Notice of any such redetermination shall be promptly given to the parties entitled to notice of the original determination in the manner prescribed in this section with respect to notice of an original determination. If the amount of benefits is increased upon such redetermination an appeal therefrom solely with respect to the matters involved in such increase may be filed in the manner and subject to the limitations provided in subsection (d) of this section. If the amount of benefits is decreased upon such redetermination, the matters involved in such decrease shall be subject to review in connection with an appeal by claimant from any determination upon a subsequent claim for benefits which may be affected in amount or duration by such redetermination. Subject to the same limitations and for the same reasons, the board may reconsider the determination in any case in which the final decision has been rendered by the referee, and may apply to the referee to issue a revised decision.

(3) In the event that an appeal involving a determination or a prior redetermination is pending as of the date a redetermination thereof is issued, such appeal, unless withdrawn, shall be treated as an appeal from such redetermination.

(4) **Notice of determinations.** Notice of a determination upon a claim shall be promptly given to the claimant, by delivery thereof or by mailing such notice to his last known address. In addition, notice of a determination or redetermination with respect to the first week of a benefit year shall be given to each employer by whom the claimant was employed during his base period, and to the last employing unit by whom the claimant was employed, and notice of any determination or redetermination which involves the application of the provisions of section 5 of this Act shall be given to the last employing unit by whom the claimant was employed, in every case by delivery thereof to such party or by mailing such notice to his last known address.

(d) **Appeals.** (1) **Appeal tribunal.** Appeals from determinations and redeterminations with respect to benefits shall be heard by an impartial referee for unemployment compensation appeals, who shall serve as the appeal tribunal. Such referee shall be appointed as provided by section 10.

(2) **Filing and hearing.** The claimant or any other party entitled to notice of a determination or redetermination as herein provided may file an appeal from such determination or redetermination at the office of the board in the county in which the claimant resides or in the county in which the claim-

ant was last employed, within ten days after the date of mailing of the notice to his last known address, or if such notice is not mailed within ten days after the date of delivery of such notice to him. Such appeal shall be heard in the county in which the appeal is filed, provided that the board may by its regulations provide for the holding of a hearing in another county with the consent of all parties or where necessary in order that a fair and impartial hearing may be had, and may provide for the taking of depositions. Unless the appeal is withdrawn with the permission of the referee, the referee after affording the parties reasonable opportunity for a fair hearing shall make findings and conclusions and on the basis thereof affirm, modify, or reverse such determination or redetermination. The parties to any appeal as aforesaid shall be promptly notified of the decision of the referee and shall be furnished with a copy of the decision and the findings and conclusions in support thereof and such decision shall be final and shall be binding upon each such party unless within twenty days after the date of mailing of notice thereof to the party's last known address, or if such notice is not mailed within twenty days after the date of delivery of such notice to him, a proceeding for judicial review is initiated by the party pursuant to paragraph (5) of this subsection. Provided that, within said twenty-day period and prior to the filing of a petition for review, the referee may reopen the matter, upon the application of the board or any other party, or upon his own motion, and thereupon may take further evidence or may modify his decision, findings or conclusions. In the event the matter is reopened the referee shall render a further decision in the matter, either reaffirming or modifying his original decision and notice shall be given thereof in the manner hereinbefore provided. The time to initiate judicial review shall run from the notice of such further decision, if the matter shall have been reopened.

(3) **Procedure.** The representatives of the board authorized to make determinations upon claims and the referee shall not be bound by common law or statutory rules of evidence or by technical rules of procedure, but any hearing or appeal before the same shall be conducted in such manner as to ascertain the substantial rights of the parties. The board shall adopt reasonable regulations governing the manner of filing appeals and the conduct of hearings and appeals, consistent with the provisions of this Act. When the same or substantially similar evidence is relevant and material to the matters in issue in claims by more than one individual or in claims by a single individual with respect to two or more weeks of unemployment, the same time and place for considering each such claim

may be fixed, hearings thereon jointly conducted, a single record of the proceedings made and evidence introduced with respect to one proceeding considered as introduced in the others; provided that in the judgment of the representative or referee having jurisdiction of the proceeding, such consolidation would not be prejudicial to any party. No person shall participate on behalf of the board in any case in which he has a direct or indirect interest. A record shall be kept of all testimony and proceedings in connection with an appeal, but the testimony need not be transcribed unless further review is initiated. Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the board and fees of witnesses subpoenaed on behalf of the board or any claimant shall be deemed part of the expense of administering the Act.

(4) **Conclusiveness of determinations and decisions.** Except in so far as reconsideration of any determination or redetermination is had under the provisions of subsection (c) of this section, any right, fact, or matter in issue, directly passed upon or necessarily involved in a determination or redetermination which has become final, or in a decision on appeal under this subsection which has become final, shall be conclusive for all the purposes of this Act as between the board, the claimant, and all employing units who had notice of such determination, redetermination, or decision.

(5) **Judicial review.** Within the time specified in paragraph (2) of this subsection, the board or any party to the proceedings before the referee may commence proceedings to obtain judicial review of the decision of the referee by a judge of the circuit court at chambers of the circuit in which the claimant resides or of the circuit in which the claimant was last employed, by filing in the court a petition for review of such decision. In any such court proceeding, every other party to the proceeding before the referee shall be made a party respondent. The petition for review need not be verified but shall state the grounds upon which such review is sought. The board shall be deemed to be a party to any such court proceeding. If the board is a party respondent the petition shall be served upon it by leaving with it, or such representative as it may designate for that purpose, as many copies of the petition as there are respondents. With its answer or petition, the board shall certify and file with the court a certified copy of the record of the case, including all documents and paper and a transcript of all testimony taken in the matter, together with the referee's findings, conclusions and decision therein. Upon the filing of a petition for review by the board or upon the service of the petition on it, the board shall forthwith send by registered mail to each other party to the

proceeding a copy of such petition, and such mailing shall be deemed to be completed service upon all such parties. In any proceeding under this subsection the findings of the referee as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive and the jurisdiction of said court shall be confined to questions of law. No additional evidence shall be received by the court but the court may order additional evidence to be taken before the referee, and the referee may, after hearing such additional evidence, modify his findings of fact or conclusions, and the board shall file such additional or modified findings and conclusions, together with a transcript of the additional record, with the court. Such proceedings shall be heard in a summary manner and shall be given precedence over all other civil cases except proceedings arising under the Workmen's Compensation Law of this territory. Proceedings for review by the supreme court may be taken and had in the same manner, but not inconsistent with the provisions of this Act, as is provided for a review of an order or decree of a circuit judge at chambers. It shall not be necessary as a condition precedent to judicial review of any decision of the referee to enter exceptions to the rulings of the referee, and no bond shall be required as a condition of initiating a proceeding for judicial review or initiating proceedings for review by the supreme court. Upon the final termination of any judicial proceeding, the referee shall enter an order in accordance with the mandate of the court.

(6) **Representation.** The board shall be a party and be entitled to notice in any proceeding involving a claim for benefits before the referee. In any proceeding for judicial review pursuant to paragraph (5) of this subsection, the board may be represented by any qualified attorney employed by the board and designated by it for that purpose, or at the board's request by the attorney general.

(e) **Payment of benefits.** Benefits shall be promptly paid in accordance with a determination or a redetermination, except as hereinafter otherwise provided. If such determination or redetermination is upon the first claim with respect to a benefit year or if the record of the case indicates that a disqualification has been alleged or may exist, such benefits shall not be paid prior to the expiration of the period for appeal. If an appeal is duly filed which raises an issue with respect to the rights of the claimant, other than an issue as to the weekly benefit amount or maximum duration of benefits payable, benefits with respect to the period prior to a final decision shall be paid only after such decision; provided that, if the referee affirms a determination or redetermination allowing benefits, such benefits shall be paid regardless of any appeal

which may thereafter be taken. If benefits are paid pursuant to a determination or redetermination or decision which is finally reversed in subsequent proceedings with respect thereto, no employer's account shall be charged with benefits so paid.

(f) The procedure with respect to the filing of claims and with respect to determinations and redeterminations thereupon and with respect to appeals from such determinations and redeterminations and with respect to judicial review of decisions on such appeals shall be governed by the provisions of this section 6 as hereinabove set forth, any provisions of other parts of this Act or of Act 237 of the Session Laws of Hawaii 1939 or of chapter 259B of the Revised Laws of Hawaii 1935, as amended, to the contrary notwithstanding."

19. By amending paragraph (1) of **section 7 (a)** thereof to read as follows:

"(1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this Act, with respect to wages for employment. Such contributions shall become due and be paid by each employer to the commissioner for the fund in accordance with such regulations as the board may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in such employer's employ. The term 'wages' wherever used in this section 7 (whether relating to the direct measure of contributions payable or relating to the wages to be included in computing any annual payroll or average annual payroll under subsection (c) of this section or relating to any other matters in connection with which the term 'wages' is used in this section (7) does not include that portion of the remuneration which, after remuneration equal to \$3,000 has been paid to an individual by an employer with respect to employment during any calendar year, commencing with the calendar year 1940, is paid to such individual by such employer with respect to employment occurring during such calendar year."

20. By amending **section 7 (b)** thereof to read as follows:

"(b) **Rate and base of contributions.** (1) Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment:

(A) 1.8 per centum with respect to employment occurring during the calendar year 1937; and

(B) 2.7 per centum with respect to employment occurring during the calendar years 1938, 1939 and 1940, and during the first calendar quarter of the calendar year 1941.

(2) Each employer shall pay contributions equal to 2.7 per centum of wages paid by him during the last three calendar quarters of the calendar year 1941 and during each calendar year thereafter, with respect to employment occurring after March 31, 1941, except as may be otherwise prescribed in subsection (c) of this section."

21. By amending **section 7 (c)** thereof to read as follows:

"(c) **Future rates based on experience.** (1) The board shall maintain a separate account for each employer and shall credit his account with all the contributions paid by him. Nothing in this Act shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by the employer into the fund.

(2) (A) Separations for the year 1938 shall be computed by the board and charged to employers' accounts in the following manner: Each employer shall make a special report, in accordance with such requirements as may be prescribed by the board, showing the total number of separations, as hereinafter defined, from his employment which occurred in 1938. The board shall compute a parity amount for the year 1938 equal to the total amount of benefits paid to all individuals in the year 1939. This parity amount shall be divided by the total number of separations from all employers for the year 1938, as determined pursuant to subparagraph (D) of paragraph (3) of this subsection. The quotient of this division shall be known as the charge per separation for the year 1938. The board shall charge the separate account of each employer with a sum equal to the number of his separations in 1938 multiplied by the charge per separation for 1938.

(B) Benefits paid to an individual during the year 1939 and thereafter shall be charged against the accounts of his base period employers and the amount of such benefits so chargeable against each base period employer's account shall bear the same ratio to the total benefits paid to the individual as the base period wages paid to the individual by such employer bear to the total amount of base period wages paid to the individual by all of his base period employers.

(3) The board shall for the nine-month period April 1, 1941 to December 31, 1941 and for each calendar year thereafter classify employers in accordance with their actual experience in the payment of contributions and with respect to separations and/or benefits charged against their accounts with a view to fixing such contribution rates as will reflect such experience. The board shall determine the contribution rate of each employer in accordance with the following requirements:

(A) The standard rate of contributions payable by each employer shall be 2.7 per centum.

(B) No employer's rate shall be reduced below the standard rate for any period subsequent to December 31, 1937 and prior to April 1, 1941. No employer's rate for the nine-month period April 1, 1941 to December 31, 1941 shall be reduced below the standard rate unless and until his account has been chargeable with either separations or benefits throughout the 36-consecutive-calendar-month period ended on December 31, 1940. No employer's rate for the calendar year 1942 or for any calendar year thereafter shall be reduced below the standard rate unless and until his account has been chargeable with benefits throughout the 36-consecutive-calendar-month period ending on December 31 of the preceding calendar year.

(C) No employer's rate for the nine-month period April 1, 1941 to December 31, 1941, or for any calendar year thereafter, shall be less than the standard rate unless the total assets of the fund as of the end of the previous calendar year were at least five per centum of the average of the total annual payrolls of all employers for the ten preceding calendar years, excluding however any year which occurs prior to January 1, 1937. No employer's rate shall be reduced in any amount which is not allowable as an additional credit, against the tax levied by the Federal Unemployment Tax Act, pursuant to the provisions of section 1601 (b) of the Federal Internal Revenue Code or pursuant to the provisions of any other federal statute, successor to said section 1601 (b), which provides for the additional credit now provided for in said section 1601 (b).

(D) If, when any such classification of employers is to be made (which may be after the commencement of the period for which the classification is to be made), the board finds that any employer has failed to file any report required in connection therewith or has filed a report which the board finds incorrect or insufficient, the board shall notify the employer thereof by registered mail addressed to his last known address. Unless such employer shall file the report or a corrected or sufficient report, as the case may be, within fifteen days after the mailing of such notice, the standard rate of contributions shall be payable by it for the period for which the contribution rate is to be fixed. The report by any employer of separations from his employment which occurred in 1938 shall be based upon records which were maintained by such employer during 1938 and the month of January 1939 and which are accurate and sufficiently complete to establish such separations and the information contained in such report

shall be subject to such verification as to accuracy and sufficiency as the board may deem necessary or advisable; and in case any employer does not file a report, conforming to the foregoing requirements, of separations from his employment which occurred in 1938, then for the purpose of determining the total number of separations from all employers for the year 1938, within the meaning of subparagraph (A) of paragraph (2) of this subsection, it shall be deemed that no separations from his employment occurred in 1938. The rate of contributions payable by any employer for the nine-month period April 1, 1941 to December 31, 1941, determined on the basis of his report of separations from his employment which occurred in 1938, shall be subject to increase but not to reduction on the basis of subsequently ascertained information, but the computation of the charge per separation for the year 1938, under subparagraph (A) of paragraph (2) of this subsection, shall not be subject to adjustment on the basis of such subsequently ascertained information.

(E) The board shall make its classification of employers for each period as soon as is reasonably possible, and shall promptly notify each employer of his rate of contributions in accordance with such classification. In case, pursuant to the provisions of this subsection, any rate of contribution payable by any employer for any period shall be less than the standard rate, such lesser rate shall be effective for the whole of the period.

(F) For the purposes of this subsection, two or more employing units which are parties to or the subject of a merger, consolidation, or other form of reorganization affecting a change in legal identity or form shall be deemed to be a single employing unit if the board finds that (i) immediately after such change the employing enterprises of the predecessor employing unit or units are continued solely through a single employing unit as successor thereto, and (ii) immediately after such change such successor is owned or controlled by substantially the same interests as the predecessor employing unit or units, and (iii) the consideration of such two or more employing units as a single employing unit for the purposes of this subsection would not be inequitable. No rate of less than the standard rate will be permitted an employing unit succeeding to the experience of another employing unit pursuant to this subparagraph for any period subsequent to such succession, except in accordance with regulations prescribed by the board, which regulations shall be consistent with the federal requirements for additional credit allowance in section 1602 of the Federal Internal Revenue Code, and shall be con-

sistent with the provisions of this Act except that such regulations may fix a computation date for such period different from the computation date generally prescribed by this Act.

(G) The board may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account. Such regulations shall be consistent with the federal requirements for additional credit allowance in section 1602 of the Federal Internal Revenue Code and consistent with the provisions of this Act.

(4) Variations from the standard rate of contributions shall be determined in accordance with the following requirements:

(A) For the nine-month period April 1, 1941 to December 31, 1941 if the total of all an employer's contributions paid for all periods prior to January 1, 1941, including contributions paid by him on or before January 31, 1941 with respect to wages paid by him prior to January 1, 1941, exceeds his total separation charges for 1938 plus the total benefits chargeable to his account for all periods prior to January 1, 1941, including benefits paid on or before January 31, 1941 with respect to weeks of unemployment beginning prior to January 1, 1941, his contribution rate for said calendar year shall be that provided in paragraph (5) of this subsection.

(B) For the calendar year 1942, and for each calendar year thereafter, if the total of all an employer's contributions paid for all periods prior to January 1 of said calendar year, including those paid on or before January 31 of said calendar year with respect to wages paid by him prior to January 1 of said calendar year, exceeds the total benefits chargeable to his account for all periods prior to January 1 of said calendar year, including benefits paid on or before January 31 of said calendar year with respect to weeks of unemployment beginning prior to January 1 of said calendar year, his contribution rate for said calendar year shall be that provided in paragraph (5) of this subsection.

(5) Subject to all other requirements of this subsection, an employer's rate shall be:

(A) 2.25 per centum if such excess equals or exceeds 4 per centum but is less than 6 per centum of his average annual payroll;

(B) 1.8 per centum if such excess equals or exceeds 6 per

centum but is less than 7 per centum of his average annual payroll;

(C) 1.35 per centum if such excess equals or exceeds 7 per centum but is less than 8 per centum of his average annual payroll;

(D) .9 per centum if such excess equals or exceeds 8 per centum but is less than 9 per centum of his average annual payroll;

(E) .45 per centum if such excess equals or exceeds 9 per centum but is less than 10 per centum of his average annual payroll; or

(F) zero, and no contributions payable, if such excess equals or exceeds 10 per centum of his average annual payroll.

(6) As used in this subsection:

(A) The term 'annual payroll' means the total amount of wages for employment paid by an employer during a calendar year; and the term 'average annual payroll' means the average of the annual payrolls of an employer for a period consisting of the three consecutive calendar years immediately prior to the calendar year for which rates are computed, except that for the nine-month period April 1, 1941 to December 31, 1941 the term 'average annual payroll' means the average of the annual payrolls for the three consecutive calendar years ending December 31, 1940. Whenever there was or is a change in the definition of 'employment' or in the definition of 'wages', effective for the purposes of this Act generally or of this section 7 at the commencement of or at a date within the three-year period of any average annual payroll, the term 'employment' and the term 'wages', for the purpose of determining each annual payroll within such period and the average annual payroll for such period, shall have the meaning prior to the effective date of such change which it had in accordance with the provisions of this Act then in effect and shall have the meaning after the effective date of such change assigned to it by the amendment to this Act providing for such change.

(B) The term 'base period wages' means the wages paid to an individual during his base period for insured work.

(C) The term 'base period employers' means employers by whom an individual was paid his base period wages.

(D) The term 'separations', with reference to separations for the year 1938, means separations from insured work which occurred during that year and which were (i) permanent or (ii) for an indefinite period or (iii) for a period of fourteen or more days.

(E) The term 'contributions' includes (i) the money payments required by this Act to be made into the fund by any

employing unit on account of having individuals in its employ and also includes (ii) ninety per centum of taxes which were paid on or before January 31, 1938 pursuant to Title IX of the Social Security Act with respect to employment in this territory during the calendar year 1936; provided, however, that any such tax referred to in (ii) above shall be included in the term 'contributions', as applied to any employing unit, only if and after such employing unit shall furnish to the board evidence, satisfactory to the board, of the amount of such tax and of the payment thereof by such employing unit, and in case such evidence shall not have been presented prior to the time of the determination by the board of the contribution rate of any employing unit for any period, such tax paid by such employing unit shall not be considered as part of the contributions of such employing unit for the purpose of the computation of its contribution rate for such period. The term 'contributions' does not include penalties or interest for delinquency in payments.

(7) The board shall as soon as is reasonably possible in each period make its classification of employers for such period and notify each employer of his rate of contributions for such period as determined pursuant to this subsection. Such determination shall become conclusive and binding upon the employer unless, within fifteen days after the mailing of notice thereof to his last known address, or in the absence of mailing within fifteen days after the delivery of such notice to him, the employer files an application for review and redetermination, setting forth his reasons therefor. If the board grants such review, the employer shall be promptly notified thereof and shall be granted an opportunity for a fair hearing, but no employer shall have standing, in any proceeding involving his rate of contributions or contribution liability, to contest the chargeability to his account of any benefits paid in accordance with a determination, redetermination or decision pursuant to section 6 of this Act except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him and only in the event that he was not a party to such determination, redetermination or decision or to any other proceedings under this Act in which the character of such services was determined. The employer shall be promptly notified of the board's denial of his application, or of the board's redetermination, both of which shall become final unless within fifteen days after the mailing of notice thereof to his last known address, or in the absence of mailing within fifteen days after the delivery of such notice to him, a petition

for judicial review is filed in the circuit court of the judicial circuit wherein the employer resides or has his principal place of business or in the circuit court of the first judicial circuit. The hearing on such petition shall be before a circuit judge at chambers. In any proceeding under this subsection the findings of the board as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive and the jurisdiction of said court shall be confined to questions of law. No additional evidence shall be received by the court but the court may order additional evidence to be taken before the board and the board may, after hearing such additional evidence, modify its determination, and file such modified determination, together with a transcript of the additional record, with the court. Such proceedings shall be heard in a summary manner and shall be given precedence over all other civil proceedings except proceedings arising under section 6 of this Act and the Workmen's Compensation Law of this territory. An appeal may be taken from the decision of the circuit judge to the supreme court of Hawaii in the same manner, but not inconsistent with the provisions of this Act, as is provided for a review of an order or decree of a circuit judge at chambers.

(8) In the event that a refund or adjustment is made, pursuant to section 9 (e), on account of contributions paid by an employer for whom a contribution rate has been determined under this subsection, the board shall further consider such contribution rate as provided by this paragraph. If the contributions on account of which such refund or adjustment is made were paid during, or with respect to, a period which entered into the computation of such contribution rate, and if the board should find that the contribution rate so determined would have been greater had such contributions not entered into the determination of the contribution rate, then the board shall redetermine the contribution rate, excluding from the computation the contributions on account of which the refund or adjustment is made, and shall notify the employer of such redetermination.

(9) Any rate determined by the board pursuant to this subsection for any period shall be subject to increase but not to reduction:

(A) As provided by subparagraph (D) of paragraph (3) of this subsection, or

(B) As provided by paragraph (8) of this subsection, or

(C) Whenever it becomes necessary to redetermine the rate in order to correct any error, or because of subsequently ascertained information.

In the event of such redetermination, the employer shall have the same right of review as upon the original determination, but such review shall be confined to the matters involved in such increase. In the event such redetermination becomes conclusive upon the employer, the employer shall pay such sum as may be necessary, after due regard has been paid to the provisions of the last sentence of paragraph (1) of section (9) (e), to adjust all contributions then due, whether or not payments have been made on account thereof, to the redetermined rate. Such sum shall be paid upon assessment thereof in the manner provided by section 7 (d) (3) and within the time therein provided. Any contributions becoming due for any period after redetermination of the rate for such period shall be paid at the redetermined rate."

22. By amending **section 7 (d)** thereof to read as follows:

"(d) (1) Contributions are hereby levied against employers as provided in this Act. Except as may be provided to the contrary in accordance with such regulations as the board may prescribe, contributions shall be paid quarterly on or before the last day of the month succeeding the last month of each quarter.

(2) Each employer liable for contributions under this Act shall make a full, true and correct return with respect to the wages on the basis of which such contributions are payable, at the time prescribed for payment of contributions, which report shall contain such other information as may be prescribed by the board. Such report shall be made by the employer even though under subsection (c) of this section no contributions are payable, and shall show the wages on the basis of which contributions would be payable had said subsection (c) not applied.

(3) If any return filed is erroneous, or is so deficient as not to disclose the full liability, or if the employer shall disclaim liability for contributions with respect to any wages upon which contributions are required to be paid, the board shall assess the correct amount of contributions and shall notify the employer thereof; and if any employer shall fail, neglect, or refuse to make a return, the board shall proceed as it deems best to obtain information on which to base the assessment of contributions and shall assess the same and notify the employer thereof. The amount so assessed shall be paid on the twenty-first day after the notice was mailed, properly addressed to the employer at his last known place of business.

(4) If any employer shall be in default in the payment of

all or any part of any contribution or contributions required to be paid by him pursuant to the provisions of this Act, it shall be the duty of the commissioner, when the amount of such contribution or contributions with respect to which such employer is delinquent is determined, either by the report of the employer or by such assessment by the board, to proceed to collect the amount with respect to which the employer is delinquent."

23. By amending **section 7 (e)** thereof to read as follows:

"(e) **Collection of contributions.** Any contribution which is delinquent under this Act, together with interest thereon and any penalty with respect thereto, may be collected by action in the name of the commissioner, or any collector or deputy collector of taxes, in assumpsit, with or without attachment of the real or personal property of the employer, and it shall be unnecessary, in order to secure the issuance of a writ of attachment, for the officer bringing such action to file any bond or to file any affidavit if a verified complaint is filed, with a prayer for such writ. In such actions the several district courts shall have concurrent jurisdiction with the circuit courts, irrespective of the amount claimed. Actions brought under this subsection shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this Act and cases arising under the Workmen's Compensation Law."

24. By amending **section 7 (f)** thereof to read as follows:

"(f) **Penalty for delinquency.** A penalty of ten per centum shall be added to the amount of all delinquent contributions, as hereinafter defined, and any delinquent contribution and penalty remaining unpaid fifteen days after the date of delinquency shall bear interest from the date of delinquency at the rate of two-thirds of one per centum for each month or fraction of a month until paid. Any penalty and interest above referred to shall be added to the contribution and shall be collected as though the same were a part of the contribution. For the purposes of this subsection, a contribution shall be deemed delinquent: (1) Upon non-payment thereof on the date prescribed for its payment, but only in case of failure to pay a contribution shown due by a return, or in case of failure to file a return, or in case of failure to pay a contribution because of a false or fraudulent return; and (2) upon non-payment thereof within the time provided by paragraph (3) of subsection (d), in any other case."

25. By amending **section 7 (g)** thereof to read as follows:

“(g) **Appeal; correction of assessment or contribution.** Any person aggrieved by any assessment of a contribution or contributions assessed pursuant to this Act for any period or periods, having paid said contribution or contributions, may appeal from said assessment in the manner and within the time and upon giving notice in writing stating his grounds of appeal to the person specified in section 2045 of the Revised Laws of Hawaii 1935, as amended, and in such case the amount of alleged taxable wages in dispute shall be used in lieu of the amount of alleged taxable income in dispute for the purposes of said section 2045, as amended. The procedure on any such appeal shall be in accordance with the procedure applicable to appeals under said section 2045, as amended, and proceedings for review by the supreme court, and for intermediate review, may be taken and had in the same manner, but not inconsistent with the provisions of this Act, as is provided by law with respect to appeals under said section 2045, as amended. Any amount determined to have been erroneously paid as a result of the final determination of such appeal in favor of the employing unit, or as a result of a final judgment for the employing unit in an action brought pursuant to section 571 of the Revised Laws of Hawaii 1935, shall be refunded, without interest and without the addition of any other charges, in the same manner as other refunds under this Act. Any other provisions of law to the contrary notwithstanding, any amount which is paid under protest or which is covered by any appeal or action referred to in this subsection, shall not be held by the commissioner and shall not be held by the treasurer as a special deposit, but any such amount shall in all respects be subject to the provisions of section 9 (b) of this Act to the same effect as though the same had not been paid under protest and was not covered by such appeal or action.”

26. By adding a new subsection to **section 7** thereof, to be designated as **subsection (h)** and to read as follows:

“(h) **Compromise.** In case there shall at any time be any dispute with respect to the liability, for any period or periods, of any employing unit or employing units for the payment of any contribution or contributions under this Act which have not been paid, or for the payment of any additional amount or amounts on account of any contribution or contributions for such period or periods over and above the amount or amounts theretofore paid by such employing unit or employing units, the board may settle and compromise such dispute upon such

terms as shall be approved by the board; provided, however, that if the issues involved in any such dispute shall have been referred to the attorney general then no settlement and compromise thereof shall be made without the approval of the attorney general. Any settlement and compromise made pursuant to the provisions of this subsection shall be binding upon the commissioner, the board and the employing unit or employing units which are parties thereto. Any such settlement and compromise may include the waiver of the contributions in dispute for any portion or portions of the period or periods in question and/or the waiver of any percentage of the contribution or contributions in dispute and/or the waiver of interest and/or the waiver of penalties. Any such compromise and settlement may be made prior to or after any assessment pursuant to subsection (d) of this section or the commencement of proceedings under subsection (e) of this section. Nothing in this section shall be deemed to authorize the compromise of any issue which has become finally determined."

[EMPLOYER'S COVERAGE.]

27. By amending paragraph (2) of **section 8 (c)** thereof to read as follows:

"(2) Any employing unit, for which services that do not constitute employment as defined in this Act are performed, may file with the board a written election that all such services performed with respect to which payments are not required under an employment security law of any other state or of the federal government, and which are performed by individuals in its employ in one or more distinct establishments or places of business, shall be deemed to constitute employment by an employer for all of the purposes of this Act for not less than two calendar years. Upon the written approval of such election by the board, such services shall be deemed to constitute employment subject to this Act from and after the date of such approval. Such services shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such first day of January such employing unit has filed with the board a written notice to that effect."

28. By amending **section 9 (a)** thereof to read as follows:

"(a) **Establishment and control.** There is hereby established in the treasury of the territory as a special fund, separate and apart from all public moneys or funds of the territory, an unemployment compensation fund, which shall be adminis-

tered by the board exclusively for the purposes of this Act. All contributions pursuant to this Act shall be paid into the fund and all compensation and benefits payable pursuant to this Act shall be paid from the fund. All moneys in the fund shall be mingled and undivided. The fund shall consist of (1) all contributions collected pursuant to this Act, together with any interest thereon collected pursuant to section 7 of this Act; (2) all fines and penalties collected pursuant to the provisions of this Act; (3) interest earned on any moneys in the fund; (4) any property or securities acquired through the use of moneys belonging to the fund; (5) all earnings of such property or securities; and (6) all other moneys received for the fund from any other source."

29. By amending **section 9 (b)** thereof to read as follows:

"(b) **Accounts and deposit.** The treasurer shall maintain within the fund three separate accounts—

- (1) a clearing account;
- (2) an unemployment trust fund account; and
- (3) a benefit account.

All moneys payable to the fund, upon receipt thereof by the treasurer, shall be immediately deposited in the clearing account. The treasurer of the territory shall be the treasurer and custodian of the fund and shall administer the fund in accordance with directions of the board.

All moneys in the clearing account after clearance thereof shall, except as herein otherwise provided, be deposited immediately with the Secretary of the Treasury of the United States of America to the credit of the account of this territory in the unemployment trust fund, established and maintained pursuant to section 904 of the Social Security Act, as amended, any provisions of law in this territory relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this territory to the contrary notwithstanding. Refunds payable pursuant to subsection (e) of this section and section 2 (k) (6) (F) of this Act may be paid from the clearing account or the benefit account. The benefit account shall consist of all moneys requisitioned from the territory's account in the unemployment trust fund in the United States treasury. Except as herein otherwise provided moneys in the clearing and benefit accounts may be deposited in any depository bank in which general funds of the territory may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. Moneys in the clearing and benefit accounts shall not be commingled with other territorial funds, but shall be maintained in separate accounts on the books of the depository bank. Such

money shall be secured by the depositary bank to the same extent and in the same manner as required by the general depositary law of this territory; and collateral pledged for this purpose shall be kept separate and distinct from any collateral pledged to secure other funds of the territory. The territorial treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the unemployment compensation fund provided for under this Act. Such liability on the official bond shall be effective immediately upon the enactment of this provision. All sums recovered on such surety bond for losses sustained by the unemployment compensation fund shall be deposited in said fund."

30. By amending **section 9 (c)** thereof to read as follows:

"(c) **Withdrawals.** Moneys requisitioned from the territory's account in the unemployment trust fund shall be used exclusively for the payment of benefits and for refunds pursuant to subsection (e) of this section and section 2 (k) (6) (F). The treasurer shall from time to time, with the approval of the board in accordance with regulations prescribed by the auditor of the territory, requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to this territory's account therein, as it deems necessary for the payment of such benefits and refunds for a reasonable future period. Upon receipt thereof such moneys shall be deposited in the benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by territorial officers of money in their custody. All benefits and refunds shall be paid from the fund upon warrants drawn upon the treasurer by the auditor of the territory supported by vouchers approved by the board. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits and refunds during succeeding periods, or, in the discretion of the board, shall be redeposited with the Secretary of the Treasury of the United States of America, to the credit of this territory's account in the unemployment trust fund, as provided in subsection (b) of this section."

31. By amending **section 9 (e)** thereof to read as follows:

"(e) **Refunds.** (1) If not later than four years after the date of payment of any amount as a contribution or contribu-

tions or interest thereon or penalty with respect thereto, an employing unit which has made such payment erroneously shall make application for an adjustment thereof in connection with subsequent contribution payments, or for a refund thereof because such adjustment cannot be made within a reasonable time, and if the board shall determine that payment of such contribution or contributions or interest or penalty or any portion thereof was erroneous, the board shall allow such employing unit to make an adjustment thereof, without interest, in connection with subsequent contribution payments by the employing unit, or if such adjustment cannot be made within a reasonable time, the board shall refund from the fund, without interest, the amount erroneously paid. For like cause and within the same period, adjustment or refund may be so made on the board's own initiative. Any number of such payments erroneously made by an employing unit may form the basis of one application. The four-year limitation period stated above shall be applicable with respect to payments made in the year 1937 and in all subsequent years. Whenever any contributions shall have been erroneously paid by an employing unit and an adjustment or refund thereof shall be allowed to the employing unit, if the employing unit shall, on account of the payment of such contributions, have had the benefit of a lower contribution rate or rates for any year or years, pursuant to section 7 (c) of this Act, than the rate or rates which it would have had for such year or years, pursuant to said section 7 (c), if such erroneously paid contributions had not been paid, then the amount of the adjustment or refund shall be reduced by an amount equal to the excess of (A) the contributions which it would have had to pay during such year or years of reduced contribution rate or rates had such erroneously paid contributions not been paid, over (B) the contributions which it did pay during such year or years on the basis of such reduced contribution rate.

(2) The applicant shall be promptly notified of the action of the board upon any application for adjustment or refund pursuant to paragraph (1) of this subsection. In case any such application is denied in whole or in part the applicant may, within thirty days after the date of mailing of notice of such action to the applicant's last known address, or in the absence of such mailing within thirty days after the delivery of such notice to the applicant, appeal from such denial to the circuit court of the judicial circuit wherein is the principal place of business of the applicant or the circuit court of the first judicial circuit. The board shall be the party respondent to any such judicial proceedings. The procedure on the trial

before the circuit court shall be in accordance with the procedure applicable to actions under section 571 of the Revised Laws of Hawaii 1935, as amended. Proceedings for review by the supreme court may be taken and had in the same manner, but not inconsistent with the provisions of this Act, as is provided in civil actions. In case the final determination in any such judicial proceedings shall be in favor of the employing unit, in whole or in part, any amount determined by such final judgment to have been erroneously paid shall be adjusted or refunded, without interest and without the addition of any other charges, in the same manner as other adjustments or refunds under this Act.

(3) An employing unit shall be entitled to receive an adjustment or refund pursuant to paragraph (1) of this subsection or to appeal from the denial of an application therefor pursuant to paragraph (2) of this subsection whether or not the erroneously made payment or payments forming the basis of such application or appeal shall have been made under protest.

(4) The remedy given in this subsection is in addition to the remedies provided in section 7 (g) of this Act; provided that no payment made as the result of an assessment made pursuant to section 7 (d) (3) shall be made the subject of an appeal pursuant to this subsection.

(5) In case any final determination in any proceedings provided for in section 7 (g) of this Act shall be in favor of the employing unit, in whole or in part, the amount found in such proceedings to have been erroneously paid by the employing unit shall be refunded to the employing unit in the same manner as other refunds under this Act."

32. By amending **section 10** thereof to read as follows:

"Section 10. (a) **Duties and powers of board.** (1) It shall be the duty of the commission of labor and industrial relations, herein referred to as the 'board', 'unemployment compensation board', or 'territorial board', to administer this Act through its director and its bureau of unemployment compensation, pursuant to the provisions of chapter 259B of the Revised Laws of Hawaii 1935, as enacted by Act 237 (Series D-183) of the Session Laws of Hawaii 1939, or as amended from time to time. Subject to the other provisions of this Act, such officers, accountants, attorneys, experts, and other persons, as are provided for by said chapter 259B or as may be necessary in carrying out the provisions of this Act, including the director, other officers and employees of the territorial employment service, shall be appointed, and their

compensation, duties and powers fixed and prescribed, in the manner provided by said chapter 259B, and all such persons shall hold office in accordance with regulations prescribed by the board. The board may delegate to any such person such power and authority, vested in it by this Act, as it deems reasonable and proper for the effective administration of this Act, except the power to make rules or regulations, and may in its discretion bond any person handling moneys or signing checks hereunder. The board may cause to be printed and distributed to the public the text of this Act or said chapter 259B, and any other material it deems relevant and suitable, and the board shall deliver a copy of its rules and regulations to any person making application therefor. The board may require such reports, make such investigations and take such other action as it deems necessary or suitable for the administration of this Act.

(2) Personnel standards on a merit basis covering all persons employed in the administration of this Act shall be established and maintained. Such personnel standards shall be in conformity with the personnel standards promulgated by the Social Security Board pursuant to the Social Security Act, as amended, and the Act of Congress entitled 'An Act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes', approved June 6, 1933, as amended. The board is authorized to adopt such regulations applicable with respect to all persons employed in the administration of this Act, as may be necessary to meet such personnel standards promulgated by the Social Security Board and to provide for all matters which are appropriate to the establishment and maintenance of a merit system on the basis of efficiency and fitness. Appointments of all persons employed in the administration of this Act shall be on a merit basis and shall be made in accordance with the applicable provisions of any territorial civil service law; provided, however, that if and whenever there shall be no applicable provisions of any territorial civil service law or if and whenever the provisions of any territorial civil service law shall not meet such personnel standards promulgated by the Social Security Board, then the personnel standards established and maintained by the board pursuant to this paragraph, and meeting the personnel standards promulgated by the Social Security Board, shall be applied with respect to all persons employed in the administration of this Act.

(3) The provisions of paragraph (2) of this subsection shall not apply to any member of the board or to the director

of labor and industrial relations provided for in chapter 259B of the Revised Laws of Hawaii 1935, as enacted by Act 237 (Series D-183) of the Session Laws of Hawaii 1939, or to the attorney or to any other person who pursuant to said chapter 259B, or any other provision of law, is exempted from territorial civil service provisions, unless the application of the provisions of said paragraph (2) to any such person is specifically provided for by this Act or is required in order to conform to the requirements of section 303 (a) of the Social Security Act as amended or to the aforesaid personnel standards promulgated by the Social Security Board.

(4) Any provision of law to the contrary notwithstanding, the board shall have authority to dismiss without notice any person employed in the administration of this Act upon receipt of notice of a determination by the United States civil service commission that such person has violated the provisions of the Act of Congress entitled 'An Act to prevent pernicious political activities', as amended (U.S.C. Title 18, section 61 (a)), and that such violation warrants the removal of such person from its employment.

(b) **Rules and regulations.** The board shall have the power to adopt, amend, or repeal such rules and regulations as it deems necessary or suitable for the administration of this Act. Public hearings thereon shall be held as required by law. Such rules and regulations, and any amendments thereto, when approved by the governor and published, shall have the force and effect of law, and shall be enforced in the same manner as the provisions of this Act. Every rule and regulation adopted and every amendment or repeal thereof shall be published in English in a Honolulu newspaper of general circulation for such period of time as the board may determine. All rules and regulations and all amendments and repeals thereof shall, unless otherwise prescribed by the board, take effect thirty days after the first publication thereof and shall be filed in the office of the secretary of Hawaii.

If there shall be practical difficulties or unnecessary hardships in carrying out a rule or regulation of the board, any person affected by such rule or regulation, or his agent, may petition for an amendment of such rule or regulation, stating the grounds therefor. The board shall fix a day for a public hearing on such petition and give reasonable notice thereof to the petitioner, together with public notice as required by law. After such public hearing the board may amend such rule or regulation so as to relieve such difficulties or hardships.

(c) **Investigation of unemployment hazard.** The board shall investigate and report upon the degree of unemployment hazard in various industries and occupations and shall recom-

mend to employers in industries or occupations showing an unusual unemployment hazard means for stabilizing employment. It shall also, if necessary, recommend to the legislature a higher rate of tax for any classification of industries or occupations in which unemployment is excessive.

(d) **Records and reports.** Each employing unit shall keep true and accurate work records, for such periods of time and containing such information as the board may prescribe. Such records shall be open to inspection and be subject to being copied by the board or its authorized representatives at any reasonable time and as often as may be necessary. The board or any authorized representative of the board, or the referee, may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the board or such authorized representative, or the referee, deems necessary for the effective administration of this Act.

(e) **Federal territorial cooperation.** In the administration of this Act the board shall cooperate to the fullest extent consistent with the provisions of this Act, with the Social Security Board, created by the Act of Congress, entitled the Social Security Act, as amended, and is authorized and directed to take such action, through the adoption of appropriate rules, regulations, administrative methods and standards, as may be necessary to secure to this territory and its citizens all advantages available under the provisions of such Act, under the provisions of sections 1602 and 1603 of the Federal Unemployment Tax Act and under the provisions of the Act of Congress entitled 'An Act to provide for the establishment of a national employment system and for cooperation with States in the promotion of such system, and for other purposes', approved June 6, 1933, as amended. The board shall comply with the regulations of the Social Security Board relating to the receipt or expenditure by this territory of moneys granted under any of such acts and shall make such reports, in such form and containing such information as the Social Security Board may from time to time require, and shall comply with such provisions as the Social Security Board may from time to time find necessary to assure the correctness and verification of such reports.

The board may make the records relating to the administration of this Act available to the Railroad Retirement Board and may furnish the Railroad Retirement Board, at the expense of such board, such copies thereof as the Railroad Retirement Board deems necessary for its purposes.

The board may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

(f) **Disclosure of information.** Except as otherwise provided in this Act, information obtained from any employing unit or individual pursuant to the administration of this Act, and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or be open to public inspection in any manner revealing the individual's or employing unit's identity. Any claimant (or his legal representative) shall be supplied with information from the records of the board, to the extent necessary for the proper presentation of his claim in any proceeding under this Act with respect thereto. Subject to such restrictions as the board may by regulation prescribe, such information may be made available to any agency of this or any other state, or any federal agency, charged with the administration of an unemployment compensation law or the maintenance of a system of public employment offices, or the bureau of internal revenue of the United States department of the treasury, and information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service. Upon request therefor the board shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status, of each recipient of benefits and such recipient's rights to further benefits under this Act. The board may request the comptroller of the currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this Act, and may in connection with such request transmit any such report or return to the comptroller of the currency of the United States as provided in section 1606 (c) of the Federal Internal Revenue Code.

(g) **Service.** Whenever it is provided herein that any service shall be made upon the board, such service may be made upon any member of the board or upon such representative as the board may have designated for that purpose.

(h) **Change of rates.** Whenever the board believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly so inform the governor and the legislature, and make recommendations with respect thereto.

(i) **Referee.** (1) The referee shall be appointed by the director of labor and industrial relations, by an appointment in accordance with the provisions of paragraph (2) of subsection (a) of this section. No officer or employee of the terri-

tory or any political subdivision thereof shall be eligible to such appointment. Provided that, anything in the laws of the territory to the contrary notwithstanding, the referee shall not be disqualified to also hear appeals arising under any other law administered by the department of labor and industrial relations.

(2) Subject to the provisions of section 12 of this Act, the referee shall receive compensation for his services at the rate of twenty dollars (\$20.00) per day for each day's actual attendance upon his duties, and shall also be paid such reasonable traveling and other expenses as may be incurred in the discharge of his duties, such compensation and expenses to be paid out of the employment security administration fund.

(3) The provisions of section 3572 of the Revised Laws of Hawaii 1935 and the provisions of section 84 of the Organic Act relating to the disqualification of judges shall be equally applicable to the referee and any substitute referee.

(4) The director of labor and industrial relations may appoint a substitute referee, by an appointment in accordance with the provisions of paragraph (2) of subsection (a) of this section, to serve during any temporary absence of the referee from the territory or in case of his illness, or in case the referee is disqualified to hear any appeal, or in the event of vacancy in the office of referee. If at any time or with respect to any appeal the referee and the substitute referee hereinabove mentioned are both unable to act, for any of the reasons above indicated, then the director of labor and industrial relations may appoint another substitute referee, by an appointment in accordance with paragraph (2) of subsection (a) of this section, to serve for such time or with respect to such appeal. Any substitute referee, while so serving, shall have all the powers and duties and be entitled to receive the same compensation and reimbursement for expenses as the referee. In case any appeal shall be referred to a substitute referee for hearing, the substitute referee shall retain jurisdiction of the appeal so referred to him, notwithstanding that the regular referee may become available, unless the reference of said appeal to the substitute referee shall be revoked by the board. The final decisions of the referee and the principles of law declared by him in arriving at such decisions, unless expressly or impliedly overruled by a later decision of a court of competent jurisdiction or of the referee, shall be binding upon any substitute referee in proceedings which involve similar questions of law.

(j) **Oaths and subpoenas.** (1) In the discharge of the duties imposed by this Act, the board, any member thereof, the director of labor and industrial relations, any duly author-

ized representative of the board, the referee, and any substitute referee, shall have the same powers respecting the administration of oaths, compelling the attendance of witnesses, the production of documentary evidence, and examining or causing to be examined witnesses, as are possessed by a circuit judge at chambers, and may take depositions and certify to official acts. Upon application of any of them the circuit court of any circuit or any judge of such court shall have power to enforce by proper proceedings the attendance and testimony of any witness so subpoenaed. Subject to the provisions of section 12 of this Act, subpoena and witness fees and mileage in such cases shall be the same as in criminal cases in the circuit courts and the necessary expenses of or in connection with any hearings or investigations shall be paid from the employment security administration fund.

(2) No person shall be excused from attending or testifying or producing material, books, papers, correspondence, memoranda and other records before the board, any member thereof, the director, any duly authorized representative of the board, the referee, or any substitute referee, or in obedience to the subpoena of any of them, in any cause or proceeding before them or any of them, on the grounds that the testimony and evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(3) The term 'referee', as used in this subsection, until July 1, 1941 shall include the industrial accident boards of the counties of Hawaii, Maui and Kauai and the labor and industrial relations appeal board, and any member thereof, with respect to any appeals pending before such boards.

(k) **Relation to other Acts.** The provisions of chapter 259B of the Revised Laws of Hawaii 1935 with respect to the adoption, amendment, repeal and review of rules and regulations shall not apply with respect to rules and regulations under this Act."

33. By amending **section 11** thereof to read as follows:

"Section 11. **Territorial employment service.** The board shall establish and maintain a territorial employment service. The board, in the conduct of such service, shall establish and

maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this Act and for the purposes of performing such functions as are within the purview of the Act of Congress entitled 'An Act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes', approved June 6, 1933, (48 Stat. 113; U.S.C., Title 29, sec. 49 (c)) as amended, hereinafter referred to as the 'Wagner-Peyser Act'. The provisions of the said Act of Congress are hereby accepted by this territory and the board is hereby designated and constituted the agency of this territory for the purposes of said Act. All moneys received by this territory under the said Act of Congress shall be paid into the employment security administration fund and shall be expended solely for the maintenance of the territorial system of public employment offices. For the purpose of establishing and maintaining free public employment offices, and promoting the use of their facilities, the board is authorized to enter into agreements with the Railroad Retirement Board, or any other agency of the United States, or of this or any other state charged with the administration of any law whose purposes are reasonably related to the purposes of this Act, and as a part of such agreements may accept moneys, services or quarters as a contribution to the maintenance of the territorial system of public employment offices or as reimbursement for services performed. All moneys received for such purposes shall be paid into the employment security administration fund."

34. By amending **section 12** thereof to read as follows:

[EMPLOYMENT SECURITY ADMINISTRATION FUND.]

"Section 12. (a) **Special fund.** There is hereby created in the territorial treasury a special fund to be known as the employment security administration fund. All moneys which are deposited or paid into this fund shall be continuously available to the board for expenditure in accordance with the provisions of this Act, and shall not lapse at any time or be transferred to any other fund. All moneys in this fund which are received from the federal government or any agency thereof or which are appropriated by the territory for the purposes described in section 11 of this Act shall be expended solely for the purposes and in the amounts found necessary by the Social Security Board for the proper and efficient administration of this Act. The fund shall consist of all moneys appropriated by this territory, all moneys received from the United States of America, or any agency thereof, including the Social Se-

curity Board, and all moneys received from any other source for such purpose, and shall also include any moneys received from any agency of the United States or any other state as compensation for services or facilities supplied to such agency, any amounts received pursuant to any surety bond or insurance policy or from other sources for losses sustained by the employment security administration fund or by reason of damage to equipment or supplies purchased from moneys in such fund, and any proceeds realized from the sale or disposition of any such equipment or supplies which may no longer be necessary for the proper administration of this Act. All moneys in this fund shall be deposited and administered, in the same manner and under the same conditions and requirements as is provided by law for other special funds in the territorial treasury, except that moneys in this fund shall not be commingled with other territorial funds, but shall be maintained in a separate account on the books of a depository bank. All moneys in this fund shall be disbursed upon warrants drawn by the auditor of the territory supported by vouchers approved by the board. Such moneys shall be secured by the depository in which they are held to the same extent and in the same manner as required by the general depository law of the territory, and collateral pledged shall be maintained in a separate custody account. The territorial treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the employment security administration fund provided for under this Act. Such liability on the official bond shall be effective immediately upon the enactment of this provision. All sums recovered on such surety bond for losses sustained by the employment security administration fund shall be deposited in said fund.

(b) Reimbursement of fund. If any moneys received after June 30, 1941, from the Social Security Board under Title III of the Social Security Act, or any unencumbered balances in the employment security administration fund as of that date, or any moneys granted after that date to this territory pursuant to the provisions of the Wagner-Peyser Act, or any moneys made available by this territory or its political subdivisions and matched by such moneys granted to this territory pursuant to the provisions of the Wagner-Peyser Act, are found by the Social Security Board, because of any action or contingency, to have been lost or been expended for purposes other than, or in amounts in excess of, those found necessary by the Social Security Board for the proper administration of this Act, it is the policy of this territory that such moneys shall be replaced by moneys appropriated for such purpose

from the general funds of this territory to the employment security administration fund for expenditure as provided in subsection (a) of this section. Upon receipt of notice of such a finding by the Social Security Board, the board shall promptly report the amount required for such replacement to the governor and the governor shall, at the earliest opportunity, submit to the legislature a request for the appropriation of such amount. This subsection shall not be construed to relieve this territory of its obligation with respect to funds received prior to July 1, 1941, pursuant to the provisions of Title III of the Social Security Act."

35. By amending **section 13** thereof to read as follows:

"Section 13. (a) **Waiver of rights void.** Any agreement by an individual to waive, release, or commute his rights to benefits or any other rights under this Act shall be void. Any agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this Act from such employer, shall be void. No employer shall directly or indirectly make or require or accept any deduction from wages to finance the employer's contributions required from him, require or accept any waiver of any right hereunder by any individual in his employ, discriminate in regard to the hiring or tenure of work on any term or condition of work of any individual on account of his claiming benefits under this Act, or in any manner obstruct or impede the filing of claims for benefits. Any employer or officer or agent of any employer who violates any provision of this subsection shall, for each offense, be fined not less than \$100 nor more than \$1,000 or be imprisoned for not more than six months, or both.

(b) **Limitation of fees.** No individual shall be charged fees of any kind in any proceeding under this Act by the board or its representatives, or the referee, or by any court or any officer thereof, and no costs shall be awarded by the referee on an appeal. Any individual claiming benefits in any proceeding before the board or the referee may be represented by counsel or other duly authorized agent; but no such counsel or agent shall either charge or receive for such services more than an amount approved by the board or referee, and such amount shall in no case exceed ten per centum of the total amount of benefits received as a result of such proceeding. Any person who violates any provision of this section shall, for each such offense, be fined not less than \$50 nor more than \$500 or imprisoned for not more than six months or both.

(c) **No assignment of benefits, exemptions.** No assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this Act shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, garnishment, or any other remedy whatsoever provided for the collection of debt. No waiver of any exemption provided for in this section shall be valid."

36. By amending **section 14** thereof to read as follows:

[PENALTIES.]

"Section 14. **[Penalties for violations.]** (a) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this Act or under the unemployment compensation law of any state or of the federal government, either for himself or for any other person, shall be punished by a fine of not less than \$20 nor more than \$50, or by imprisonment for not longer than thirty days, or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining a subject employer or to avoid or reduce any contribution or other payment required from an employing unit under this Act or under the unemployment compensation law of any state or of the federal government, or who wilfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, or who wilfully fails to establish, maintain, or preserve records of all individuals in his employ which show the total amount of wages paid for each pay-period to each such individual while in his employ, or who wilfully fails to establish, maintain, or preserve any other record, as required by this Act or any rule or regulation adopted hereunder, shall be punished by a fine of not less than \$20 nor more than \$200, or by imprisonment for not longer than sixty days, or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact, or failure to establish, maintain, or preserve records, and each day of such failure or refusal shall constitute a separate offense.

(c) Any person who shall wilfully violate any provision of this Act or any order, rule, or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this Act, and for which a penalty is neither prescribed in this Act nor provided by any other applicable statute, shall be punished by a fine of not less than \$20 nor more than \$200, or by imprisonment for not longer than sixty days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

(d) If any employee or member of the board, or the referee, in violation of the provisions of section 10 (f), makes any disclosure of information obtained from any employing unit or individual in the administration of this Act, or if any person who has obtained any list of applicants for work, or of claimants or recipients of benefits, under this Act, shall use or permit the use of such list for any political purpose, he shall be fined not less than \$20 nor more than \$200, or imprisoned for not longer than ninety days, or both."

37. By amending **section 17** thereof to read as follows:

"Section 17. [**Reciprocal arrangements.**] (a) The board is hereby authorized to enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the federal government, or both, whereby:

(1) Services performed by an individual for a single employing unit for which services are customarily performed in more than one state shall be deemed to be services performed entirely within any one of the states—

(i) in which any part of such individual's service is performed, or

(ii) in which such individual has his residence, or

(iii) in which the employing unit maintains a place of business; provided there is in effect, as to such services, an election, approved by the agency charged with the administration of such state's unemployment compensation law, pursuant to which all the services performed by such individual for such employing unit are deemed to be performed entirely within such state;

(2) Potential rights to benefits accumulated under the unemployment compensation laws of one or more states or under one or more such laws of the federal government, or both, may constitute the basis for payment of benefits through a single appropriate agency under terms which the board finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund;

(3) Wages or services, upon the basis of which an individual may become entitled to benefits under an unemployment compensation law of another state or of the federal government, shall be deemed to be wages for insured work for the purpose of determining his rights to benefits under this Act, and wages for insured work, on the basis of which an individual may become entitled to benefits under this Act shall be deemed to be wages or services on the basis of which unemployment compensation under such law of another state or of the federal government is payable, but no such arrangement shall be entered into unless it contains provisions for reimbursements to the fund for such of the benefits paid under this Act upon the basis of such wages or services and provisions for reimbursements from the fund for such of the compensation paid under such other law upon the basis of wages for insured work, as the board finds will be fair and reasonable as to all affected interests; and

(4) Contributions due under this Act with respect to wages for insured work shall for the purposes of section 7 of this Act be deemed to have been paid to the fund as of the date payment was made as contributions therefor under another state or federal unemployment compensation law, but no such arrangement shall be entered into unless it contains provisions for such reimbursement to the fund of such contributions and the actual earnings thereon as the board finds will be fair and reasonable as to all affected interests.

(b) Reimbursements paid from the fund pursuant to paragraph 3 of subsection (a) of this section shall be deemed to be benefits for the purpose of sections 3 and 9 of this Act. The board is authorized to make to other state or federal agencies and to receive from such other state or federal agencies, reimbursements from or to the fund, in accordance with arrangements entered into pursuant to subsection (a) of this section.

(c) The administration of this Act and of other state and federal unemployment compensation and public employment service laws will be promoted by cooperation between this territory and such other states and the appropriate federal agencies in exchanging services, and making available facilities and information. The board is therefore authorized to make such investigations, secure and transmit such information, make available such services and facilities and exercise such of the other powers provided herein with respect to the administration of this Act as it deems necessary or appropriate to facilitate the administration of any such unemployment compensation or public employment service law, and, in like manner, to accept and utilize information, services and facili-

ties made available to this territory by the agency charged with the administration of any such other unemployment compensation or public employment service law.

(d) To the extent permissible under the laws and Constitution of the United States, the board is authorized to enter into or cooperate in arrangements whereby facilities and services provided under this Act, and facilities and services provided under the unemployment compensation law of any foreign government, may be utilized for the taking of claims and the payment of benefits under the employment security law of this territory or under a similar law of such government.

38. By amending **section 21** thereof to read as follows:

"Section 21. [**Declaration of legislative intent.**] The legislature hereby declares its intention to provide for carrying out the purposes of this Act in cooperation with the appropriate agencies of other states and of the federal government, as part of a nationwide employment security program, and particularly to provide for meeting the requirements of Title III of the Social Security Act, the requirements of section 1602 and section 1603 of the Federal Unemployment Tax Act and the requirements of the Act of Congress referred to in section 11 (a) of this Act, each as amended, in order to secure for this territory and the citizens thereof the grants and privileges available thereunder. All doubts as to the proper construction of any provision of this Act shall be resolved in favor of conformity with such requirements."

39. By amending **section 22** thereof to read as follows:

"Section 22. [**Amendment or repeal of laws, effect of.**] If at any time the governor shall find that the Federal Unemployment Tax Act has been amended or repealed by Act of Congress, with the result that no portion of the contributions required by this Act may be credited against the tax under the Federal Unemployment Tax Act, the governor shall publicly so proclaim and upon the date of such proclamation the provisions of this Act requiring the payment of contributions and benefits shall be suspended. The board shall thereupon requisition from the unemployment trust fund all moneys therein standing to the credit of this territory and shall direct the treasurer of the territory to deposit such moneys, together with any other moneys in the fund, as a special fund in any banks or public depositaries in the territory in which general funds of the territory may be deposited. Such moneys shall after six months be refunded to the employers who have made contributions under this Act, on the

following basis: Each such employer shall be entitled to the total of the contributions paid by him less the total of benefits charged to his account pursuant to section 7 (c) of this Act, and if there shall not be sufficient moneys to pay all expenses and to pay to all such employers the amounts to which they are respectively entitled as aforesaid, then the amounts which such employers shall receive shall be reduced proportionately. If after the payment of all expenses and the payment to the employers of the amounts to which they are entitled as aforesaid there are any moneys undisposed of, the same shall be held for disposition as the legislature may prescribe.

If at any time this Act is amended and the effect of such amendment or any part thereof is to legally impair or prevent the application of contributions under this Act as a credit against the taxes levied under the Federal Unemployment Tax Act, then such disabling amendment or part thereof shall not go into effect so long as such disability or prohibition exists and shall go into effect if and when such disability or prohibition ceases to exist, and in any case where such effect is caused by a part of an amendment the remainder of the amendment shall not be affected thereby and shall nevertheless go into effect in accordance with its provisions."

40. By amending the subtitles preceding sections 8, 12 and 14 thereof, so that said subtitles shall be as follows:

Preceding section 8:

"EMPLOYERS' COVERAGE"

Preceding section 12:

"EMPLOYMENT SECURITY ADMINISTRATION
FUND"

Preceding section 14:

"PENALTIES"

and by adding the subtitle "GENERAL PROVISIONS" immediately preceding section 18 thereof.

Section 2. All laws or parts of laws, including specifically, but without limitation of the generality of the foregoing, any provisions of chapter 259B of the Revised Laws of Hawaii 1935, as amended, said chapter having been added to said Revised Laws by Act 237 (Series D-183) of the Session Laws of Hawaii 1939, and any provisions of said Act 237 (Series D-183) of the Session Laws of Hawaii 1939, which are inconsistent with the provisions of this Act, are hereby amended to conform to this Act.

Section 3. **[Transition provisions.]** (a) As used in this section: (1) "law" means the Hawaii Unemployment Compensa-

tion Law; (2) "old law" means the law prior to amendment by this Act; (3) "new law" means the law as amended by this Act; and (4) "effective date" means the day after the date upon which this Act takes effect in accordance with the provisions of section 4 of this Act.

(b) All amendments to the law made by this Act shall become effective upon the effective date, except as is expressly provided to the contrary in the context of said amendments and except as is hereinafter provided to the contrary in this section.

(c) Wages payable to an individual for insured work performed prior to April 1, 1941, shall, for the purposes of sections 3 (c), 3 (e), 3 (g), 4 (e), 7 (a) (1), and 7 (c) of the new law, and for the purposes of the proviso in subsection (1) of this section, be deemed to be wages paid within the calendar quarter with respect to which such wages were payable.

(d) (1) If and to the extent that amendment numbered 8 of section 1 of this Act, by changing the language of paragraph (6) of section 2 (k) of the law or by adding new paragraphs (7) and (8) to said section 2 (k) effects any changes in the definition of "employment", contained in said section 2 (k), from the definition thereof contained in said section in the old law, such changes shall, for the purposes of section 7 of the law, relating to contributions, be effective commencing January 1, 1940 and the term "employment" wherever used in said section shall for any period subsequent to December 31, 1939 have the meaning thereof as defined in the new law; provided, however, that all benefits paid, prior to or on or after the effective date, to any individuals on the basis of employment, as defined in the old law, occurring at any time subsequent to December 31, 1939 and prior to the effective date shall, notwithstanding the provisions of this paragraph, be charged against the accounts of their base period employers as provided in section 7 (c) of the law, to the same effect as though such changes in the definition of employment became effective for all purposes upon the effective date.

(2) Such changes shall, for the purposes of other sections of the law, including all matters relating to the qualifications for and amount of benefits, be effective upon the effective date.

(e) (1) If and to the extent that amendment numbered 12 of section 1 of this Act effects any changes in the definition of "wages", contained in section 2 (p) of the law, from the definition thereof contained in said section in the old law, such changes shall, for the purposes of section 7 of the law, relating to contributions, be effective commencing January 1, 1940 and the term "wages" wherever used in said section shall

for any period subsequent to December 31, 1939, have the meaning thereof as defined in the new law; provided, however, that all benefits paid, prior to or on or after the effective date, to any individuals on the basis of wages, as defined in the old law, earned or paid at any time subsequent to December 31, 1939 and prior to the effective date shall, notwithstanding the provisions of this paragraph, be charged against the accounts of their base period employers as provided in section 7 (c) of the law, to the same effect as though such changes in the definition of wages became effective for all purposes upon the effective date.

(2) Such changes shall, for the purpose of other sections of the law, including all matters relating to the qualification for and amount of benefits, be effective upon the effective date.

(f) Any individual for whom there is current a benefit year, established pursuant to the old law, which has not expired prior to the effective date, shall be entitled to benefits during the unexpired portion of the benefit year in accordance with the provisions of the old law. Where the base period of any individual is in part prior to and in part subsequent to the effective date, the terms "employment" and "wages", for the purposes of sections 3 (c), 3 (e), 3 (g) and 4 (e), and for all other purposes relating to the determination of benefits payable to such individual, shall, for the period prior to the effective date have the meanings thereof as defined in the old law and for the period commencing with the effective date have the meanings thereof as defined in the new law.

(g) No employer shall be entitled to any refund of or for any contributions paid prior to the effective date, on account of the fact that his contributions paid prior to the effective date for any period were in excess of his contributions due for such period in accordance with the provisions of the new law. In case, (1) by reason of any changes in the definition of "employment", effective commencing January 1, 1940 for the purposes of section 7 of the law as provided in paragraph (1) of subsection (d) of this section, or (2) by reason of any changes in the definition of "wages", effective commencing January 1, 1940 for the purposes of section 7 of the law as provided in paragraph (1) of subsection (e) of this section, or (3) by reason of the limitation the term "wages", for the purposes of section 7 of the law, so that it does not include that portion of the remuneration which, after remuneration equal to \$3,000 has been paid to an individual by an employer with respect to employment during any calendar year, commencing with the calendar year 1940, is paid to such individual by such employer with respect to employment during such calendar year,

incorporated into paragraph (1) of section 7 (a) of the law by amendment numbered 19 of section 1 of this Act, contributions payable by an employer for any part or parts of the period commencing January 1, 1940 and ending upon the effective date are less under the provisions of the new law than they were under the provisions of the old law, then if and to the extent that such employer has paid the excess prior to the effective date he shall not be entitled to any refund thereof but shall be entitled to adjustments therefor, without interest, solely in connection with contributions made by him subsequent to the effective date and if and to the extent that such employer has not paid the excess prior to the effective date he shall not be required to do so or to pay any interest or penalty with respect thereto.

(h) Subject to the provisions of subsection (j) and subsection (k) of this section:

(1) On July 1, 1941 the duties and powers vested pursuant to Act 237 (Series D-183) of the Session Laws of Hawaii 1939 in the labor and industrial relations appeal board and the industrial accident boards of the counties of Hawaii, Maui, and Kauai, relating to appeals arising under the Hawaii Unemployment Compensation Law, shall be vested in the referee for unemployment compensation appeals. All appeals to the labor and industrial relations appeal board and the industrial accident boards of the counties of Hawaii, Maui, and Kauai, arising under said Hawaii Unemployment Compensation Law, which are pending and undisposed of on July 1, 1941, shall be transferred to and heard and decided by said referee. All records, papers, and files of said industrial accident boards and said labor and industrial relations appeal board, relating to the unemployment compensation law, shall be delivered to the board.

(2) The time for appeal and the right of appeal with respect to all determinations, assessments, rules, regulations and orders, and the conclusive character thereof, shall be governed by the law in effect at the time of the making thereof.

(3) The procedure with respect to the taking of an appeal, or the commencement of any other proceeding, shall be governed by the law in effect at the time such appeal is taken or such proceeding is commenced, and the procedure with respect to the hearing and disposition of appeals and other proceedings shall be governed by the law in effect at the time of such hearing or disposition, provided that, wherever under the old law a hearing would be de novo, which de novo hearing is not provided for by the new law, in such case the procedure with respect to the hearing and disposition of the matter by

the court shall be governed by the old law if the appeal was heard by the appeal tribunal under the provisions of the old law.

(4) Amendment numbered 18 of section 1 of this Act shall become effective on July 1, 1941.

(i) The provisions of section 7 (f) of the law as amended by this Act shall apply to all contributions paid and to all assessments made after the effective date, whether such contributions became due and payable prior to or subsequent to the effective date and whether the contributions on which such assessments are based became due and payable prior to or subsequent to the effective date.

(j) If as a result of any amendment to the law made by this Act or if as a result of any section, subsection, paragraph, subparagraph, sentence, clause, phrase or proviso included in any such amendment, the law as amended by this Act does not comply with the requirements of section 1603 (a) of the Federal Internal Revenue Code and/or does not comply with the requirements of section 303 (a) of the Social Security Act, then such amendment or such section, subsection, paragraph, subparagraph, sentence, clause, phrase or proviso shall not go into effect unless and until such noncompliance shall cease to exist, and in such case the other amendments made to the law by this Act, and the remainder of such amendment if only a part thereof shall be the cause of such noncompliance as aforesaid, shall not be affected thereby and shall nevertheless go into effect in accordance with the provisions of this Act.

(k) If any amendment to the law made by this Act or if any section, subsection, paragraph, subparagraph, sentence, clause, phrase or proviso included in any such amendment, or the application thereof to any person or circumstance, is for any reason held to be unconstitutional or invalid, the other amendments made to the law by this Act, and the remainder of such amendment if only a part thereof shall be held to be unconstitutional or invalid as aforesaid, or the application of such provision to other persons or circumstances, shall not be affected thereby and shall nevertheless continue in effect in accordance with the provisions of this Act.

(l) The provisions of subsections (j), (k) and (m) of this section are subject to the following: If any provisions of this Act which give a retroactive effect, for the purposes of the law generally or for the purposes of any section or other subdivision of the law, to any amendment or amendments to the law made by this Act (including specifically but without limitation of the generality hereof the provisions of paragraph (1) of subsection (d) of this section and the provisions of paragraph (1) of subsection (e) of this section) result in the

noncompliance by the law as amended by this Act with the requirements of section 1603 (a) of the Federal Internal Revenue Code and/or the requirements of section 303 (a) of the Social Security Act, or if as the result solely of any such provisions the law as amended by this Act does not comply with the requirements of section 1602 (a) of the Federal Internal Revenue Code and is not entitled to be certified and approved under section 1602 (b) thereof for the allowance of the additional credit provided for in section 1601 (b) thereof, or if any such provisions are for any reason held to be unconstitutional or invalid, then such offending provisions shall be of no force and effect and such amendment or amendments shall become effective upon the effective date; provided, however, that if the application of the provisions of the third sentence of paragraph (1) of section 7 (a) of the law, as amended by this Act, to exclude from the definition of "wages", as used in section 7 of the law, as so amended, all of the remuneration, after the first \$3,000 thereof, paid to an individual by an employer with respect to employment during the calendar year 1940 or with respect to employment during the calendar year 1941, would be inconsistent with the requirements of section 1603 (a) of the Federal Internal Revenue Code and/or the requirements of section 303 (a) of the Social Security Act, or if as a result solely of such application the law as amended by this Act does not comply with the requirements of section 1602 (a) of the Federal Internal Revenue Code and is not entitled to be certified and approved under section 1602 (b) thereof for the allowance of the additional credit provided for in section 1601 (b) thereof, or if such application would be unconstitutional or invalid, then such provision shall be applied to exclude from wages, as used in said section 7, only such, if any, of the remuneration, after the first \$3,000 thereof, paid to an individual by an employer with respect to employment during the calendar year 1940 or with respect to employment during the calendar year 1941 as could constitutionally and validly and consistently with the requirements of said section 1603 (a) and section 303 (a) and said section 1602 (a) be so excluded.

(m) If as a result of any paragraph, subparagraph, sentence, clause, phrase or proviso included in amendment numbered 21 of section 1 of this Act, amending section 7 (c) of the law, the new law does not comply with the requirements of section 1602 (a) of the Federal Internal Revenue Code and is not entitled to be certified and approved under section 1602 (b) thereof for the allowance of the additional credit provided for in section 1601 (b) thereof, then such paragraph, subparagraph, sentence, clause, phrase or proviso shall not go

into effect and in such case the remainder of said amendment shall not be affected thereby and shall go into effect with the omission from said section 7 (c) of the offending paragraph, subparagraph, sentence, clause, phrase or proviso.

(n) (1) The facts that any service is expressly excluded from employment by the particularized provisions of paragraph (6) of section 2 (k) of the new law, by amendment numbered 8 of section 1 of this Act, or in accordance with the particularized definition of "agricultural labor" in paragraph (8) of said section 2 (k) of the new law, by said amendment numbered 8, and that there were not in the old law similar particularized provisions expressly excluding such service from employment, shall not in themselves give rise to any implication that such service was not excluded from employment under the terms of the old law in accordance with the true intent and interpretation of the provisions of the old law.

(2) The facts that any payment is expressly excluded from wages by the particularized provisions of paragraph (2) of section 2 (p) of the new law, by amendment numbered 12 of section 1 of this Act, and that there were not in the old law similar particularized provisions expressly excluding such payment from wages, shall not in themselves give rise to any implication that such payment was not excluded from wages under the terms of the old law in accordance with the true intent and interpretation of the provisions of the old law.

(o) All moneys in the unemployment compensation administration fund referred to in section 12 of the old law, including the employment service account mentioned in subsection (b) of said section 12, shall upon the enactment of this Act be transferred to the employment security administration fund referred to in section 12 of the new law.

Section 4. This Act shall take effect upon its approval.

(Approved May 20, 1941.) **H.B. 206, Act 304.**

CHAPTER 262. RADIO CONTROL.

[D-251] An Act Amending Chapter 262 of the Revised Laws of Hawaii 1935, Relating to the Regulation and Control of Radio Interference, by Abolishing the Radio Commission, Creating a New Radio Board to Replace It, Prescribing the Powers, Duties and Functions of Said Board, and Making Certain Appropriations Therefor.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 262 of the Revised Laws of Hawaii 1935, as amended, is hereby amended to read as follows:

"Sec. 7970. Creation of radio board; powers and duties. There is hereby created a radio board hereafter referred to as the 'board', which shall be empowered to carry out the provisions and intent of this chapter.

The board shall consist of five members, one of whom shall be the superintendent of public works (hereinafter referred to as the 'superintendent'), who shall ex officio be the chairman and executive officer of the board, and the remaining four of which shall be appointed, one from each county, by the governor as provided in section 80 of the Organic Act, for terms of four years, or the unexpired period thereof, in such manner that the term of one member shall expire each year.

The board shall have full power and authority to examine into all the sources and causes of radio interference as may be noted or reported by the employees of the board or by any other person, whether such interference is caused or originates by reason of the occupation, business or activity of any public utility, company, corporation or other person using electric power, current or energy for any purpose whatsoever. [L. 1931, c. 298, pt. of s. 1; R. L. 1935, s. 7970; am. L. 1935, c. 201, s. 1; am. L. 1941, c. 333, pt. of s. 1.]

Sec. 7971. Personnel. The superintendent, with the approval of the board and subject to any applicable civil service law, shall appoint a properly qualified radio engineer, who shall be known as the chief engineer of the board, and an office assistant and qualified inspectors for each of the counties, and shall, subject to the approval of the board, define the duties of all the employees of the board. With the approval of the board, he may dismiss employees of the board for cause and as prescribed by the rules of the civil service commission. Until and unless otherwise determined pursuant to any applicable classification law, the salary of the chief en-

gineer shall be \$3600.00 per year, of each inspector \$1800.00 per year, and the salaries of other employees shall be as determined by the superintendent with the approval of the board. [L. 1931, c. 298, pt. of s. 1; R. L. 1935, s. 7971; am. L. 1935, c. 201, s. 2; am. L. 1941, c. 333, pt. of s. 1.]

Sec. 7972. Rules and regulations. The board shall, by September 1, 1941, and in compliance with section 154, prescribe rules and regulations for the testing of motor vehicles, tractors, appliances, stationary and all other internal combustion engines mentioned in this chapter, so that compliance with this chapter may be had and effected, which rules and regulations, when approved by the governor and published once a week for four successive weeks in a Honolulu daily newspaper, and in newspapers printed and published in the respective outside counties, shall have the force and effect of law. Each inspector shall receive also an automobile allowance of \$40.00 per month. [L. 1931, c. 298, pt. of s. 1; R. L. 1935, s. 7972; am. L. 1941, c. 333, pt. of s. 1.]

Sec. 7973. Creating radio interference unlawful. It shall be unlawful for any person wilfully and knowingly to operate any machine, appliance, device, equipment or apparatus of any kind which produces or causes unnecessary and reasonably preventable radio interference to the extent that the same interferes in any substantial degree with the transmission or reception of radio broadcast, irrespective of the point of origin of the broadcast program, including all radio waves or signals licensed by the authority of the United States and those governments which are signatory to the international telecommunication treaties to which the United States is a party, and including radio signals or waves used for the reception of sound, television, facsimile, telegraphic, telephonic or radio communication, and such other modulations as may be required to communicate intelligence; provided, however, that nothing in this chapter shall be construed to extend any regulatory power over any broadcast, commercial or amateur radio station which has a license or permit for operation, issued by the government of the United States, or any of its duly authorized branches or departments, agencies or boards, and which is regularly engaged in interstate and international communication, or which is otherwise beyond the regulatory power of the territory. [L. 1931, c. 298, pt. of s. 1; R. L. 1935, s. 7973; am. L. 1941, c. 333, pt. of s. 1.]

Sec. 7974. Investigation and entry. Every employee of the board shall have the right at all reasonable hours to go upon any premises or property upon which radio interference

is in effect, or has been reported to the board to exist. The board, when satisfied that reasonable cause exists, shall notify the alleged offending party in writing to abate such interference within a reasonable time from the date of such notification.

If such notice is not complied with, the superintendent in the name of the board may bring injunction proceedings in the circuit court of the jurisdiction in which the alleged offense of radio interference is continuing. The county attorneys of the various counties shall act as attorneys within their respective jurisdictions for the board. [L. 1931, c. 298, pt. of s. 1; R. L. 1935, s. 7974; am. L. 1935, c. 201, s. 5; am. L. 1941, c. 333, pt. of s. 1.]

Sec. 7975. Specific penalties. Any person who violates any of the provisions of this chapter, or any valid rule or regulation of the board, shall, upon conviction thereof, be punished by a fine not exceeding two hundred fifty dollars, or by imprisonment not exceeding ninety days, or both; and any member, officer or agent of any firm or corporation who knowingly assists in, or wilfully permits, any such violation shall also be equally and separately so punishable." [L. 1935, c. 201, s. 6; R. L. 1935, s. 7975; am. L. 1939, c. 236, s. 1; am. L. 1941, c. 333, pt. of s. 1.]

Section 2. The radio commission of the territory is hereby abolished, and it shall forthwith deliver over to the superintendent all and sundry the property, funds, effects and records which remain in its possession or control. All unexpended moneys heretofore or during the present session of this legislature, or any extension thereof, appropriated to the use of or available for expenditure by the radio commission, are hereby reappropriated and transferred to the radio board, to be expended by it on vouchers approved by the superintendent, or his duly appointed subordinate thereunto duly authorized by the board, for the same respective purposes for which said moneys were expendable prior to such reappropriation and transfer; and if in any such appropriation reference is made to the radio commission, such reference shall be deemed to mean and refer to the radio board created by this Act.

Section 3. Authority is hereby conferred upon the superintendent of public works with the approval of the radio board to reappoint any such employee without reexamination under any civil service law or regulation.

Section 4. If any provision of this Act, or its application to any person or circumstance, shall be held unconstitutional

or invalid, the remainder of this Act, or the application of such provision to other persons or circumstances, shall not be affected.

Section 5. This Act shall take effect thirty days after its approval.

(Approved May 22, 1941.) **H.B. 449, Act 333.**

CHAPTER 262A. HAWAII HOUSING AUTHORITY.

FARMERS OF LOW INCOME.

[D-252] An Act to Amend Act 190 (Series D-168) of the Session Laws of Hawaii 1935, as Amended by Act 3 (Series D-169) and Act 179 (Series D-168) of the Session Laws of Hawaii 1937 and as Amended by Act 91 (Series D-188) of the Session Laws of Hawaii 1939, by Adding Thereto Three New Sections to be Numbered Sections 28, 29 and 30 Relating to the Hawaii Housing Authority Providing Dwellings for Farmers of Low Income in Rural Areas.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 190 of the Session Laws of Hawaii 1935, as amended by Act 3 and Act 179 of the Session Laws of Hawaii 1937 and as amended by Act 91 of the Session Laws of Hawaii 1939, is hereby amended by adding thereto three new sections to be numbered sections 28, 29 and 30 and to read as follows:

[Sec. 7978AA.] "Section 28. [Housing projects for farmers of low income.] The Hawaii housing authority is specifically empowered and authorized to borrow money, accept grants and exercise its other powers to provide housing for farmers of low income as herein defined. In providing such housing, the authority shall not be subject to the tenant selection limitations provided in clause (a) of section 26 of this Act. In connection with such projects, the authority may enter into such leases or purchase agreements, accept such conveyances and rent or sell dwellings forming part of such projects to or for farmers of low income, as such authority deems necessary in order to assure the achievement of the objectives of this Act.

Such leases, agreements or conveyances may include such covenants as the authority deems appropriate regarding such dwellings and the tracts of land described in any such instrument, which covenants shall be deemed to run with the land where the authority deems it necessary and the parties to such instrument so stipulate. Nothing contained in this section shall be construed as limiting any other powers of the authority.

[Sec. 7978AB.] Section 29. [Applications for aid.] The owner of any farm or plantation operated, or worked upon, by farmers of low income in need of safe and sanitary housing may file an application with the authority requesting that it provide for a safe and sanitary dwelling or dwellings on such farm or plantation for occupancy by such farmers of low income. Such applications shall be received and examined by the authority in connection with the formulation of projects or programs to provide housing for farmers of low income.

[Sec. 7978AC.] Section 30. [Definition of "farmers of low income."] 'Farmers of low income' shall mean persons or families who at the time of their admission to occupancy in a dwelling of the authority: (1) live under unsafe or insanitary housing conditions; (2) derive their principal income from operating or working upon a farm or plantation; and (3) had an aggregate average annual net income for the three years preceding their admission that was less than the amount determined by the authority to be necessary to enable them, without financial assistance, to obtain decent, safe and sanitary housing, without overcrowding."

Section 2. Notwithstanding any other evidence of legislative intent it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 3. This Act shall take effect upon its approval.

(Approved May 9, 1941.) S.B. 294, Act 190.

NATIONAL DEFENSE PROJECTS.

[D-253] An Act to Authorize the Hawaii Housing Authority to Undertake the Development or Administration of Projects to Assure the Availability of Safe and Sanitary Dwellings for Persons Engaged in National-Defense Activities Who Would Not Otherwise Be Able to Secure Such Dwellings Within the Vicinity Thereof; to Limit the Initiation of the Development of Such Projects Until December 31, 1943; to Authorize the Hawaii Housing Authority to Cooperate With or Act as Agent of the Federal Government in the Development and Administration of Such Projects of the Federal Government, to Acquire or Lease Such Projects and to Sell Certain Projects to the Federal Government; to authorize the Territory of Hawaii and Public Bodies Therein to Assist Such Projects of the Hawaii Housing Authority and of the Federal Government; to Make Obligations Issued for Such Projects Legal Investments; and to Declare Valid All Bonds, Notes and Obligations Issued for Such Projects Heretofore Undertaken to Assure the Availability of Safe and Sanitary Dwellings for Persons Engaged in National-Defense Activities, and to Provide Certain Priorities in the Selection of Land to Be Acquired by the Authority by Eminent Domain.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 7978AD.] Section 1. [Declaration of legislative intent.] It is hereby found and declared that the national-defense program involves large increases in the military forces and personnel in the Territory and a great increase in the number of workers in defense industries; that there is an acute shortage of safe and sanitary dwellings available to such persons and their families in the Territory which impedes the national-defense program; that it is imperative that action be taken immediately to assure the availability of safe and sanitary dwellings for such persons to enable the rapid expansion of national-defense activities in the Territory and to avoid a large labor turnover in defense industries which would seriously hamper their production; that the provisions hereinafter enacted are necessary to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities which otherwise would not be provided at this time; and that such provisions are for the public use and purpose of facilitating the national-defense program in the Territory. It is further declared to be the purpose of this Act to authorize the Hawaii housing authority to do any and all things neces-

sary or desirable to secure the financial aid of the federal government, or to cooperate with or act as agent of the federal government, in the expeditious development and the administration of projects to assure the availability when needed of safe and sanitary dwellings for persons engaged in national-defense activities.

[Sec. 7978AE.] Section 2. [Powers relating to national defense housing.] The Hawaii housing authority may undertake the development and administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities whom the housing authority determines would not otherwise be able to secure safe and sanitary dwellings within the vicinity thereof, but the housing authority shall not initiate the development of any such project pursuant to this Act after December 31, 1943.

In the ownership, development or administration of such projects, the Hawaii housing authority shall have all the rights, powers, privileges and immunities that the housing authority has under any provision of law relating to the ownership, development or administration of slum clearance and housing projects for persons of low income, in the same manner as though all the provisions of law applicable to slum clearance and housing projects for persons of low income were applicable to projects developed or administered to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities as provided in this Act, and housing projects developed or administered hereunder shall constitute "housing projects" under the housing authority law, as that term is used therein; provided, that during the period (herein called the "National-Defense Period") that the housing authority finds (which finding shall be conclusive in any suit, action or proceeding) that within the Territory, or any part thereof, there is an acute shortage of safe and sanitary dwellings which impedes the national-defense program in the Territory and that the necessary safe and sanitary dwellings would not otherwise be provided when needed for persons engaged in national-defense activities, any project developed or administered by the Hawaii housing authority pursuant to this Act, with the financial aid of the federal government (or as agent for the federal government as hereinafter provided), shall not be subject to the limitations provided in section 26 and the second sentence of section 25 of the housing authority law; and provided further, that, during the national-defense period, the housing authority may make payments in such amounts as it finds necessary or desirable for any services, facilities, works, privileges or improvements fur-

nished for or in connection with any such projects, and provided, further, that the housing authority shall not obtain by proceedings in eminent domain any land upon which agricultural products are being raised commercially when other land of substantially the same utility and of substantially the same or lesser value is available. After the national-defense period, any such projects owned and administered by the Hawaii housing authority shall be administered for the purposes and in accordance with the provisions of the housing authority law.

[**Sec. 7978AF.**] Section 3. [**Same, powers.**] The Hawaii housing authority may exercise any or all of its powers for the purpose of cooperating with, or acting as agent for, the federal government in the development or administration of projects by the federal government to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities and may undertake the development or administration of any such project for the federal government. In order to assure the availability of safe and sanitary housing for persons engaged in national-defense activities, the housing authority may sell (in whole or in part) to the federal government any housing project developed for persons of low income but not yet occupied by such persons; such sale shall be at such price and upon such terms as the housing authority shall prescribe and shall include provision for the satisfaction of all debts and liabilities of the housing authority relating to such project.

[**Sec. 7978AG.**] Section 4. [**Political subdivisions authorized to cooperate.**] Any political subdivision shall have the same rights and powers to cooperate with the Hawaii housing authority, or with the federal government, with respect to the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities that such political subdivision has for the purpose of assisting the development or administration of slum clearance or housing projects for persons of low income.

[**Sec. 7978AH.**] Section 5. [**Bonds as legal investments.**] Bonds or other obligations issued by the housing authority for a project developed or administered pursuant to this Act shall be legal investments to the same extent and for the same persons, institutions, associations, corporations, bodies and officers as bonds or other obligations issued pursuant to the housing authority law for the development of a slum clearance or housing project for persons of low income.

[**Sec. 7978AI.**] Section 6. [**Validity of bonds, contracts, etc.**]

All bonds, notes, contracts, agreements and obligations of the housing authority heretofore issued or entered into relating to financing or undertaking (including cooperating with or acting as agent of the federal government in) the development or administration of any project to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities, are hereby validated and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

[**Sec. 7978AJ.**] Section 7. [**Additional powers conferred by this law.**] This Act shall constitute an independent authorization for the Hawaii housing authority to undertake the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities as provided in this Act and for the housing authority to cooperate with, or act as agent for, the federal government in the development or administration of similar projects by the federal government. In acting under this authorization, the housing authority shall not be subject to any limitations, restrictions or requirements of other laws (except those relating to land acquisition) prescribing the procedure or action to be taken in the development or administration of any public works, including slum clearance and housing projects for persons of low income or undertakings or projects of municipal or public corporations or political subdivisions or agencies of the Territory. The Hawaii housing authority may do any and all things necessary or desirable to cooperate with, or act as agent for, the federal government, or to secure financial aid, in the expeditious development or in the administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities and to effectuate the purposes of this Act.

[**Sec. 7978AK.**] Section 8. [**Definitions.**] (a) "Persons engaged in national-defense activities", as used in this Act, shall include: enlisted men in the military and naval services of the United States and employees of the War and Navy departments assigned to duty at military or naval reservations, posts or bases; and workers engaged or to be engaged in industries connected with and essential to the national-defense program; and shall include the families of the aforesaid persons who are living with them.

(b) "Persons of low income", as used in this Act, shall mean persons or families who lack the amount of income which is necessary (as determined by the Hawaii housing authority) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

(c) "Development", as used in this Act, shall mean any and all undertakings necessary for the planning, land acquisition, demolition, financing, construction or equipment in connection with a project (including the negotiation or award of contracts therefor), and shall include the acquisition of any project (in whole or in part) from the federal government.

(d) "Administration", as used in this Act, shall mean any and all undertakings necessary for management, operation or maintenance, in connection with any project, and shall include the leasing of any project (in whole or in part) from the federal government.

(e) "Federal government", as used in this Act, shall mean the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(f) The development of a project shall be deemed to be "initiated", within the meaning of this Act, if the Hawaii housing authority has issued any bonds, notes or other obligations with respect to financing the development of such project of the Hawaii housing authority, or has contracted with the federal government with respect to the exercise of powers hereunder in the development of such project of the federal government for which an allocation of funds has been made prior to December 31, 1943.

(g) "Housing authority", as used in this Act, shall mean the Hawaii housing authority created by the housing authority law.

(h) "Housing authority law", as used in this Act, shall mean Act 190 (Series D-168) of the Session Laws of Hawaii 1935, as amended by Act 3 (Series D-169) and Act 179 (Series D-168) of the Session Laws of Hawaii 1937 and as further amended by Act 91 (Series D-188) of the Session Laws of Hawaii 1939.

(i) "Political subdivision", as used in this Act, shall mean any county, city and county, city, town, village, or other public body of the Territory of Hawaii and the Territory of Hawaii and any officers thereof.

[Sec. 7978AL.] Section 9. [Powers in addition to other powers.] The powers conferred by this Act shall be in addition and supplemental to the powers conferred by any other law, and nothing contained herein shall be construed as limiting any other powers of the Hawaii housing authority.

[Sec. 7978AM.] Section 10. [Severability.] Notwithstanding any other evidence of legislative intent it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any persons or circumstances, is held invalid, the remainder of the Act and the appli-

cation of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 11. This Act shall take effect upon its approval.

(Approved May 14, 1941.) **S.B. 293, Act 235.**

Title XXVII.

BOND ACTS AND SINKING FUND.

CHAPTER 266. SINKING FUNDS FOR REDEMPTION OF TERRITORIAL BONDS.

[E-254] An Act to Amend Chapter 266 of the Revised Laws of Hawaii 1935, as Amended, Relating to Sinking Funds for Redemption of Territorial Bonds, by adding Thereto a New Section, Numbered Section 8030-A, to Provide for Additional Sinking Fund Payments and Appropriating Funds Therefor, and to Repeal Section 2213 of the Revised Laws of Hawaii 1935, Relating to Deposits for Sinking Fund.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Chapter 266 of the Revised Laws of Hawaii 1935, as amended, is hereby further amended by adding thereto a new section, to be numbered section 8030-A, and to read as follows:

"Sec. 8030-A. Additional payments to sinking fund. The treasurer shall, during the month of January of the year in which this section first becomes effected and each year thereafter, first, calculate and determine the amount of assets actually on hand, accumulated as provided for in section 8030, in the sinking fund and in the special reserve in the sinking fund as of December 31 of the year next preceding, and, second, shall calculate and estimate, as of said December 31, the amount of assets required to be in the sinking fund and the said special reserve, as provided for in section 8030. If the amount of assets estimated as required to be in the sinking

fund and the said special reserve shall exceed the amount of assets actually therein, as of said December 31, then he shall calculate and determine the portion or portions of said excess properly chargeable and allocable to each county and the city and county and to the Territory, on the basis of the amount of bonds issued by the Territory the proceeds of which have been expended for county purposes and for territorial purposes, as the case may be, whether or not said bonds have been refunded, or redeemed, or matured. He shall next calculate and determine the amount or amounts to be paid annually by each county and the city and county and the Territory, up to and including the year 1957, that the aggregate amount of such additional payments, together with interest thereon compounded annually at the rate of 2 per centum, will aggregate the amount of the excess plus loss of the interest required by section 8030 to be earned thereon, up to and including the year 1957.

The treasurer shall next calculate and estimate the total amount of interest which will be lost to the sinking fund on the account of the withdrawal from the special reserve in the sinking fund of amounts of moneys representing payments on account of the principal of serial refunding bonds issued to refund term bonds. The rate of interest to be used for the calculation of such loss of interest shall be the actual interest earning of the sinking fund for the calendar year immediately preceding the year in which the calculation is made. He shall then determine the portion or portions of such estimated loss of interest properly chargeable and allocable to each county and the city and county and to the Territory, on the basis of the amount of bonds issued by the Territory and which have been refunded by such serial refund bonds, the proceeds of which have been expended for county purposes and for territorial purposes. He shall then calculate and determine the amount or amounts to be paid annually by each county and the city and county and the Territory, up to and including the year 1957, that the aggregate amount of such additional payments, together with interest thereon compounded annually at the rate of 2 per centum, will aggregate the amount of interest estimated will be lost on account of such withdrawals.

The treasurer shall report the above fact or facts to the governor and, with his approval, he shall then transfer the estimated additional amounts required to be paid from the general fund to the sinking fund and the said special reserve.

The additional amount or amounts above determined to be paid by each county and the city and county shall be furnished by the treasurer on or before January 31, together with any other amounts required to be furnished by law, to the board

of supervisors of each county and the city and county and shall be included in the budget of the county and city and county as provided for by section 1921, under the item designated as 'other county items fixed by law'.

All amounts necessary for the purposes of this section are hereby deemed appropriated out of the general fund of the Territory."

Section 2. **Section 2213** of the Revised Laws of Hawaii 1935, is hereby repealed.

Section 3. This Act shall take effect on January 1, 1942 in the event that House Bill No. 191 of the 1941 session of this legislature shall be enacted into law, otherwise this Act shall take effect on January 1, 1943.

(Approved May 13, 1941.) **S.B. 414, Act 230.**

[E-255] An Act to Provide for the Transfer of Unrequired Balances in Territorial Loan Funds to the Sinking Fund or the General Fund for the Redemption of Territorial Term Bonds and Serial Bonds, as the Case May Be.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 8034A.] Section 1. [Transfer of unrequired funds to sinking and general funds.] The treasurer of the Territory, with the approval of the governor, is hereby authorized to transfer all balances of moneys received from the sale of territorial bonds for territorial improvements on deposit in loan funds, which are no longer required for the purposes for which said territorial bonds were issued, from said loan funds to the territorial sinking fund, in case the moneys were received from the sale of term bonds, and to the general fund in case the moneys were received from the sale of serial bonds. Such sums so transferred shall be used for the redemption of term bonds and serial bonds, as the case may be, as they become due. The amounts transferred to the general fund shall be deemed to be appropriated for the purpose of the redemption of serial bonds as they become due.

Section 2. This Act shall take effect upon its approval.

(Approved April 24, 1941.) **S.B. 329, Act 100.**

CHAPTER 267B. REFUNDING OF COUNTY AND CITY AND COUNTY BONDS.

[E-256] An Act to Provide for Refunding Bonded Indebtedness of the Various Counties and of Any City and County of the Territory of Hawaii.

Be It Enacted by the Legislature of the Territory of Hawaii:

[Sec. 8067.] Section 1. **Definitions.** The word "county" wherever used in this Act shall mean any county or city and county created in the Territory. The words "chairman of the board of supervisors" wherever used in this Act shall also mean and include the mayor of any city and county created in the Territory.

[Sec. 8067A.] Section 2. **Refunding bonds authorized.** For the purpose of refunding the present and future bonded indebtedness of any county of the Territory or any part or parts thereof, the treasurer of any such county is authorized and empowered, with the approval of the board of supervisors or other governing authority of such county, to issue from time to time negotiable refunding bonds of such county, in an amount or amounts not exceeding at par value the bonded indebtedness to be thereby refunded, the principal and interest of such refunding bonds to be paid dollar for dollar, in any coin or currency of the United States which at the time of payment is legal tender for public and private debts. No election need be held in any county upon the question of issuing such refunding bonds.

[Sec. 8067B.] Section 3. **Bonds which may be refunded.** The bonds which may be refunded under the provisions of this Act shall include among others any bonds which are at the time matured or about to mature or which are payable or redeemable at the option of the county refunding the same or which such county otherwise then has the right to call, pay, or redeem, or any bonds of any county which the holders may consent may be paid or refunded, even though such bonds be not matured or callable or redeemable.

[Sec. 8067C.] Section 4. **Subject to approval of President.** All refunding bonds issued under the authority of this Act shall be approved by the President of the United States.

[Sec. 8067D.] Section 5. **Bonds exempt from taxes.** All such bonds shall be exempt from any and all taxes whatsoever, and the

payment of the principal and interest thereof shall be a charge upon the consolidated revenues of the county issuing such bonds. Such bonds shall be the general and absolute obligation of the county issuing the same and the public faith and credit of such county shall be and are hereby pledged for the punctual payment of the principal and interest thereof as the same shall become due, and sufficient revenues shall be raised or provided from time to time for that purpose.

[Sec. 8067E.] Section 6. **Form. Sale of bonds.** The treasurer of any county may, with the approval of the board of supervisors of such county, determine the forms and denominations of all refunding bonds issued under the authority of this Act, the date or dates of maturity, the date or dates and method of redemption, if made redeemable, the rate or rates of interest, the interest paying dates, and the place or places at which the principal and interest of such bonds or any of them shall be payable. The treasurer, with the approval of the board of supervisors, may make such arrangements as may be necessary or proper for the sale of the whole or any part or parts of any refunding bond issue authorized under the provisions of this Act, and may do all such other acts as may be necessary or proper with respect to the issue of such bonds. The arrangements shall provide for the sale of the refunding bonds either by public advertisement for tenders, or by private sale.

[Sec. 8067F.] Section 7. **Engraving: Signatures.** All refunding bonds issued under the provisions of this Act shall be lithographed or engraved and shall be signed by the treasurer of the county, and by the chairman of the board of supervisors and countersigned by the auditor and be sealed with the seal of the county. If interest coupons are attached to such bonds, they shall bear a lithographed or engraved facsimile of the signature of the treasurer of the county. In case any of such officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds to the purchaser, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until the delivery of the bonds.

[Sec. 8067G.] Section 8. **Exchange for refunded bonds.** In the discretion of the board of supervisors of any county and treasurer of such county refunding bonds may be exchanged at not less than their par value for an equal amount of the bonds to be refunded under the provisions of this Act at not more than their par value or refunding bonds may be sold as provided by this Act and the proceeds therefrom applied solely to the

payment of the bonds to be refunded under the provisions of this Act. All bonds so refunded and redeemed by the issue and sale or issue and exchange of refunding bonds as herein provided for shall be cancelled.

[**Sec. 8067H.**] Section 9. **Payment, principal and interest.** When the refunding bonds of the issues herein authorized and the several interest amounts mature, it shall be the duty of the treasurer of the county issuing the same to pay the same out of any funds in his hands applicable thereto. But if such bonds or interest are made payable elsewhere than at the office of such treasurer he shall provide sufficient funds at the designated place or places of payment to meet and pay all such obligations at maturity in accordance with the terms thereof.

[**Sec. 8067I.**] Section 10. **Transfer agent.** The board of supervisors of any county and the treasurer of such county may from time to time by letter or other instrument in writing signed by the chairman of the board of supervisors and by the treasurer of such county appoint a transfer agent of any refunding bonds issued under this Act, which transfer agent may be a reputable trust company or bank located in the Territory or in the City and State of New York, United States of America, or elsewhere, in their discretion, and may from time to time remove such transfer agent and appoint a new transfer agent, and the compensation of such transfer agent shall be determined by the treasurer of the county with the approval of the board of supervisors of such county and paid out of any funds in the hands of the treasurer applicable thereto.

[**Sec. 8067J.**] Section 11. **Extent of authority hereunder. Negotiability.** This Act shall, without reference to any other law, be full authority to issue, exchange or sell refunding bonds of any county of the Territory, and such bonds shall have all the qualities of negotiable paper under the law merchant, and shall not be invalid for any irregularity or defect in the proceedings for the issue, sale or exchange thereof, and shall be incontestable in the hands of bona fide purchasers for value. No proceedings in respect of the issuance of any such refunding bonds shall be necessary except such proceedings as are required by this Act.

Section 12. This Act shall take effect upon its approval.

(Approved April 23, 1941.) **S.B. 86, Act 76.**

CHAPTER 267C.

**APPROPRIATIONS,
 GENERAL.**

Am., Sr. 863-64 S.
 P. Sp.S./41

[E-257] An Act Making Appropriations Out of the General Revenues for the Biennial Period Ending June 30, 1943.

Rep., Sr. 865 S.
 P. Sp.S./41

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the following sums, or so much thereof as may be necessary, respectively, are hereby appropriated for the objects and purposes hereinafter specified for the biennial period ending June 30, 1943, out of the moneys in the treasury received from general revenues:

DEPARTMENT OF AGRICULTURE AND FORESTRY

General Administration		\$66,959.00
A. Personal Services	\$50,364.00	
President	\$14,400.00	
Other Personal Services	35,964.00	
B. Other Current Expenses	15,595.00	
C. Equipment	1,000.00	
Division of Animal Industry.....		103,349.00
A. Personal Services	82,509.00	
B. Other Current Expenses	15,140.00	
C. Equipment	2,200.00	
Motor Vehicles ...	1,200.00	
Other Equipment .	1,000.00	
E. Structures and Permanent Improvements to Land	1,500.00	
Buildings	1,500.00	
G. Capital Outlays for Rights and Obligations	2,000.00	
Refunds, Awards and Indemnities .	2,000.00	

Division of Entomology		189,644.00
A. Personal Services	111,044.00	
B. Current Expenses	72,000.00	
Importation and Propagation of Beneficial Insects, Birds and other Insects	5,000.00	
Eradication of Giant African Snails and Insect Control	40,000.00	
Eradication and control of Astacus Nigrescens (cray fish)	10,000.00	
Other Current Expenses	17,000.00	
C. Equipment	2,100.00	
Motor Vehicles ...	900.00	
Other Equipment .	1,200.00	
E. Structures and Permanent Improvements to Land	4,500.00	
Building	4,500.00	
Division of Forestry		242,706.00
A. Personal Services	178,131.00	
B. Current Expenses	45,975.00	
Importation, Propa- gation, Distribu- tion of Fruit Trees, Vegetables and other Vegetation .	10,000.00	
Other Current Expenses	35,975.00	
C. Equipment	8,600.00	
Motor Vehicles ...	6,200.00	
Other Equipment .	2,400.00	
E. Structures and Permanent Improvements to Land	10,000.00	

Buildings	8,500.00	
Fencing	1,500.00	
Division of Fish and Game.....		116,846.00
A. Personal Services	76,491.00	
B. Other Current Expenses	35,905.00	
C. Equipment	4,450.00	
Motor Vehicles ...	3,500.00	
Other Equipment .	950.00	
Total: Department of Agriculture and Forestry		<u>\$719,504.00</u>

ATTORNEY GENERAL

Attorney General's Office		\$128,574.00
A. Personal Services	\$113,074.00	
Attorney General .	\$19,800.00	
Assistant Attorney		
General	14,400.00	
Deputy Attorney		
General	12,000.00	
Deputy Attorney		
General	10,200.00	
Deputy Attorney		
General	8,400.00	
Deputy Attorney		
General	8,400.00	
Other Personal		
Services	39,874.00	
B. Other Current Expenses	10,000.00	
C. Equipment	5,500.00	
Total: Attorney General		<u>\$128,574.00</u>

AUDITING DEPARTMENT

Auditor's Office		\$166,517.00
A. Personal Services	\$146,757.00	
Auditor	\$14,400.00	
Deputy Auditor ...	12,960.00	
Other Personal		
Services	119,397.00	
B. Other Current Expenses	18,260.00	
C. Equipment	1,500.00	

Veterans, Hawaii Guard 1893-1898...		30,000.00
F. Fixed Charges	30,000.00	
Grants, Subsidies and Contributions	30,000.00	
Permanent Pensions		62,784.00
F. Fixed Charges	62,784.00	
Grants, Subsidies and Contributions	62,784.00	
Total: Auditing Department		<u>\$259,301.00</u>

BUREAU OF THE BUDGET

Bureau of the Budget.....		\$77,184.00
A. Personal Services	\$66,684.00	
Director	\$15,000.00	
Other Personal Services	51,684.00	
B. Current Expenses	10,000.00	
Revolving Fund— Division of Supplies	2,500.00	
Other Current Expenses	7,500.00	
C. Equipment	500.00	
Total: Bureau of the Budget.....		<u>\$77,184.00</u>

CIVIL SERVICE COMMISSION

Civil Service Commission		\$53,968.00
A. Personal Services	\$41,968.00	
B. Other Current Expenses	10,000.00	
C. Equipment	2,000.00	
Total: Civil Service Commission.....		<u>\$53,968.00</u>

EMPLOYEES' RETIREMENT SYSTEM

Retirement Division		\$1,284,362.00
A. Personal Services	\$55,152.00	
Secretary	\$11,067.00	
Other Personal Services	44,085.00	
B. Other Current Expenses	7,000.00	
C. Equipment	3,500.00	
F. Fixed Charges	1,218,710.00	

Pension Accumu-
 lation Fund.. 1,192,430.00
 Permanent Pen-
 sions under Act
 261, Session
 Laws of 1925 and
 Act 31, Session
 Laws of 1927 .. 26,280.00

Investment Division		25,000.00
A. Personal Services	17,280.00	
Investment Re- search Director	13,813.00	
Other Personal Services	3,467.00	

The Investment Research Di-
 rector shall have had at least
 two years experience in each
 of the following lines of en-
 deavor: Governmental sta-
 tistical work; Investment
 banking; Commercial and
 savings banking and Tax
 administration. He shall also
 have had some experience in
 governmental budgeting and
 financing. The Investment
 Research Director shall be
 exempt from civil service.
 Appointment of the Director
 shall be made by the Gover-
 nor and continuance in ser-
 vice shall be at the pleasure
 of the Governor.

B. Other Current Expenses	6,220.00	
C. Equipment	1,500.00	
Total: Employees' Retirement System.....		\$1,309,362.00

EXECUTIVE DEPARTMENT

Governor's Office and Washington		
Place		\$45,000.00
B. Current Expenses	\$45,000.00	
Silver Service for battleship "Hawaii"	\$5,000.00	
Other Current Expenses	40,000.00	
To be expended at the discre- tion of the Governor.		
Governor's Contingent Fund		50,000.00
B. Current Expenses	50,000.00	
From which expenditures may be made only with the approval of the Governor and only for urgent needs for which no specific ap- propriation or an insufficient appropriation is made herein or otherwise, a detailed ac- count of all of which expenditures shall be submitted to the next legislature, provided, however, that no expenditure shall be made out of this fund to increase any salary.		
Governor's Contingent Fund for Tem- porary Assistants		10,000.00
A. Personal Services	10,000.00	
Total: Executive Department		\$105,000.00

GRANTS TO OTHER INSTITUTIONS

F. Fixed Charges		\$1,235,000.00
Grants, Subsidies and Contributions	\$1,235,000.00	
Leahi Home	\$470,000.00	
Kula Sanatorium	195,000.00	
Samuel Mahelona Memo- rial Hospital	145,000.00	
Puumaila Home	225,000.00	
Shingle Memorial Hospi- tal	25,000.00	

Lunalilo Home 30,000.00

Kapiolani Maternity

Home 20,000.00

(The provisions of Act
179, Session Laws of
1937, to the contrary
notwithstanding.)

Hawaii Tourist Bureau. 125,000.00

Provided that this appropriation shall become available from time to time in fractional amounts equal to one-half the amount then received from individuals and business organizations by said Hawaii Tourist Bureau, five members of which Bureau to be appointed by the Governor for terms of one year each or until a successor is appointed, one of said members to be selected to represent each of the island counties of Hawaii, Maui, Honolulu and Kauai, upon nomination of the boards of supervisors of the respective counties in conjunction with the principal civic or commercial organizations of said counties, and one to be selected by the Governor to represent the territory at large; provided, further, that said funds shall be expended exclusively for display advertising space, in metropolitan newspapers and national magazines of mainland United States and/or Canada, and for broadcast or radio, and all such advertising shall be placed through an advertising agency incorporated in the Territory of Hawaii and holding such corporate status for a period of at least three years prior to receiving such appointment, which agency in order to qualify must possess official recognition from representative publishers' associations on the mainland, such as American Newspaper Publishers' Association, Periodical Publishers' Association, etc., as indicating its ability to fully function as a qualified national advertising agency; said monies shall be issued to said Hawaii Tourist Bureau by warrants of the auditor of the Territory of Hawaii only when satisfactory evidence has been presented to the said auditor that such an amount has been collected in cash and deposited in a bank to the credit of the Hawaii Tourist Bureau for this purpose; provided, further, that not less than \$25,000.00 of the amount hereby

appropriated shall be expended for radio broadcasting from within the territory; provided, further, that not more than \$3,000.00 per year shall be expended for travel expenses.

Total: Grants to Other Institutions.....	<u>\$1,235,000.00</u>
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HARBOR COMMISSION

Board of Harbor Commissioners		
(Proper)		\$34,125.00
A. Personal Services	\$28,025.00	
B. Other Current Expenses	5,475.00	
C. Equipment	<u>625.00</u>	
Maintenance and Additions, Landings, Wharves and Pipe Lines and Other Property under the Control of the Board of Harbor Commissioners.....		420,649.00
A. Personal Services	167,328.00	
B. Current Expenses	217,621.00	
Reconstruction	\$59,646.00	
Dredging, Kawaihae		
Channel	20,000.00	
Harbor Dredging—		
All Islands	35,000.00	
Other Current		
Expenses	<u>102,975.00</u>	
C. Equipment	700.00	
E. Structures and Permanent		
Improvements to Land	<u>35,000.00</u>	
Kahului Bulkhead ..	10,000.00	
Sea Wall and Groin		
at Waiehu	5,000.00	
Kailua Wharf		
Buildings	5,000.00	
Nawiliwili Retaining		
Wall	<u>15,000.00</u>	
Harbor Masters and Pilots.....		122,779.00
A. Personal Services	93,069.00	
B. Other Current Expenses	<u>29,710.00</u>	
Total: Harbor Commission		<u>\$577,553.00</u>

HAWAII EQUAL RIGHTS COMMISSION

Hawaii Equal Rights Commission.....	\$20,000.00
A. Personal Services	\$12,000.00
B. Other Current Expenses	7,750.00
C. Equipment	250.00
Total: Hawaii Equal Rights Commission.....	<u>\$20,000.00</u>

HAWAIIAN HOMES COMMISSION

Hawaiian Homes Commission (Administration Account)	\$213,546.00
A. Personal Services	\$98,278.00
Executive Officer ..	\$12,000.00
Other Personal Services	86,278.00
B. Other Current Expenses	33,240.00
C. Equipment	12,528.00
Motor Vehicles	5,075.00
Other Equipment ..	7,453.00
E. Structures and Permanent Improvements to Land	63,500.00
Water System, Molokai	35,000.00
Water System, Waimanalo	9,000.00
Road, Waimanalo ..	8,500.00
Concrete Sidewalks and Curbs at Keau- kaha, (Kalania- naole Street)	11,000.00
These funds shall be expended only in the event that Con- gress does not ratify House Joint Resolution No. 24.	
F. Fixed Charges	<u>6,000.00</u>
Grants, Subsidies and Contributions	6,000.00
Total: Hawaiian Homes Commission.....	<u>\$213,546.00</u>

DEPARTMENT OF HEALTH

General Administration		\$85,573.00
A. Personal Services	\$72,379.00	
Territorial		
Commissioner	\$14,400.00	
Other Personal		
Services	57,979.00	
B. Other Current Expenses	11,050.00	
C. Equipment	344.00	
E. Structures and Permanent		
Improvements to Land	1,800.00	
Addition to Garage	1,800.00	
Bureau of Vital Statistics.....		45,256.00
A. Personal Services	32,802.00	
B. Other Current Expenses	11,000.00	
C. Equipment	1,454.00	
Tuberculosis Bureau		66,220.00
A. Personal Services	30,819.00	
B. Other Current Expenses	25,670.00	
C. Equipment	9,731.00	
Bureau of Public Health Nursing....		339,888.00
A. Personal Services	261,071.00	
Additional Public		
Health Nurses		
(Oahu)	31,547.00	
Additional Public		
Health Nurses		
(Outside Islands)	15,947.00	
Other Personal		
Services	213,577.00	
B. Other Current Expenses	50,000.00	
C. Equipment	28,817.00	
Motor Vehicles ...	27,850.00	
Other Equipment .	967.00	
Plague Campaign		138,252.00
A. Personal Services	102,493.00	
B. Other Current Expenses	31,500.00	
C. Equipment	4,259.00	

Motor Vehicles ...	3,000.00	
Other Equipment .	1,259.00	
Bureau of Communicable Diseases...		78,579.00
A. Personal Services	49,217.00	
B. Other Current Expenses	25,700.00	
C. Equipment	3,662.00	
Motor Vehicles ...	1,000.00	
Other Equipment .	2,662.00	
Bureau of Maternal and Child Health		37,151.00
A. Personal Services	13,651.00	
B. Other Current Expenses	23,000.00	
C. Equipment	500.00	
Bureau of Pure Food and Drugs.....		22,199.00
A. Personal Services	19,259.00	
B. Other Current Expenses	2,500.00	
C. Equipment	440.00	
Bureau of Mental Hygiene.....		89,335.00
A. Personal Services	52,202.00	
The Director shall not engage in private practice during regular office hours.		
B. Other Current Expenses	34,590.00	
C. Equipment	2,543.00	
Motor Vehicles ...	2,000.00	
Other Equipment .	543.00	
Bureau of Sanitation		186,553.00
A. Personal Services	157,778.00	
B. Other Current Expenses	21,500.00	
C. Equipment	7,275.00	
Motor Vehicles ...	4,650.00	
Other Equipment .	2,625.00	
Boards of Examiners		150.00
B. Current Expenses	150.00	
Government Physicians		99,900.00
A. Personal Services	92,400.00	

The Koolaupoko physician shall be changed to Waimanalo-Kailua government physician; Kaneohe-to-Kaaawa at \$75.00 per month, provided the city and county adds \$60.00 per month	1,800.00	
One additional government physician at North Kohala at \$100.00 per month	2,400.00	
The Hanalei government physician shall also cover Haena-Anahola, at \$50.00 more per month	1,200.00	
Delete the government physician at Kau.		
Other Personal Services	87,000.00	
B. Other Current Expenses	7,500.00	
Total: Department of Health		\$1,189,056.00

DEPARTMENT OF HOSPITALS AND SETTLEMENT

General Administration		\$58,572.00
A. Personal Services	\$54,622.00	
B. Other Current Expenses	3,700.00	
C. Equipment	250.00	
Kalaupapa Settlement		723,030.00
A. Personal Services	225,000.00	
All present employees, whether increased in pay or not, shall not be covered by civil service.		
B. Other Current Expenses	457,980.00	

Alterations to Community Hall	\$3,500.00	
Other Current Expenses	454,480.00	
C. Equipment		21,050.00
Motor Vehicles	4,500.00	
Other Equipment ..	16,550.00	
F. Fixed Charges		19,000.00
Grants, Subsidies and Contributions	19,000.00	
Kalihi Hospital		189,795.00
A. Personal Services	84,320.00	
B. Other Current Expenses	100,400.00	
C. Equipment	1,875.00	
F. Fixed Charges	3,200.00	
Grants, Subsidies and Contributions	3,200.00	
Rental, Kalihi Site		3,240.00
B. Other Current Expenses	3,240.00	
Parole and Suspect Division.....		15,187.00
A. Personal Services	6,027.00	
B. Other Current Expenses	9,160.00	
Board's Clinic		12,660.00
A. Personal Services	7,573.00	
B. Other Current Expenses	4,637.00	
C. Equipment	450.00	
Welfare Division		7,986.00
A. Personal Services	6,986.00	
B. Other Current Expenses	1,000.00	
Kalaupapa Store		6,500.00
B. Current Expenses	6,500.00	
Care and Placement of Dependent Children under the Care and Custody of the Board of Hospitals and Settlement		17,000.00
B. Current Expenses	17,000.00	

Aiding Indigent Persons Released from Kalihi Hospital and Kalaupapa Settlement		2,400.00
F. Fixed Charges	2,400.00	
Grants, Subsidies and Contributions	2,400.00	
Relief of Persons Released from Ka- lihi Hospital and Kalaupapa Settle- ment		1,800.00
F. Fixed Charges	1,800.00	
Grants, Subsidies and Contributions	1,800.00	
Total: Department of Hospitals and Settlement		\$1,038,170.00

DEPARTMENT OF INSTITUTIONS

Section 111 of the Revised Laws of Hawaii 1935 shall not apply to the appropriations of this department, and transfers may be made between any appropriations to any institution or division thereof and transfers may be made from any appropriation of any institution or division to General Administration.

General Administration		\$47,475.00
A. Personal Services	\$41,200.00	
Director	\$16,800.00	
Other Personal Services	24,400.00	
B. Other Current Expenses	5,275.00	
C. Equipment	1,000.00	
Waimano Home		463,858.00
A. Personal Services	228,828.00	
B. Other Current Expenses	149,000.00	
Home Placement ..	5,000.00	
Other Current Expenses	144,000.00	
B-1. Repairs and Alterations to Buildings and other property...	15,000.00	
C. Equipment	21,030.00	

Motor Vehicles	8,280.00	
Other Equipment ..	12,750.00	
	<u> </u>	
E. Structures and Permanent Improvements to Land	50,000.00	
	<u> </u>	
Dormitories	50,000.00	
Territorial Hospital		872,633.00
A. Personal Services	536,883.00	
B. Other Current Expenses	300,000.00	
B-1. Repairs and Alterations to Buildings and other property...	10,000.00	
C. Equipment	25,750.00	
	<u> </u>	
Division of Paroles and Home Place- ments		80,813.00
A. Personal Services	40,568.00	
B. Current Expenses	30,945.00	
Home Placements, Kawailoa	10,000.00	
Home Placements, Waialea	10,000.00	
Other Current Expenses	10,945.00	
	<u> </u>	
C. Equipment	9,300.00	
	<u> </u>	
Motor Vehicles	8,800.00	
Other Equipment ..	500.00	
	<u> </u>	
Kawailoa Training School for Girls..		195,484.00
A. Personal Services	87,368.00	
B. Other Current Expenses	62,000.00	
B-1. Repairs and Alterations to Buildings and other property...	15,600.00	
C. Equipment	6,516.00	
Motor Vehicles	1,800.00	
Other Equipment ..	4,716.00	
	<u> </u>	
E. Structures and Permanent Improvements to Land	24,000.00	
	<u> </u>	
Isolation Ward Addition	12,000.00	
Cottage	5,000.00	
Water Systems	7,000.00	
	<u> </u>	

Waialeale Training School for Boys...		193,149.00
A. Personal Services	106,149.00	
B. Other Current Expenses	68,500.00	
B-1. Repairs and Alterations to Buildings and other property...	12,500.00	
C. Equipment	6,000.00	
Motor Vehicles	2,700.00	
Other Equipment ..	3,300.00	
Oahu Prison		446,459.00
A. Personal Services	243,959.00	
B. Other Current Expenses	186,500.00	
B-1. Repairs and Alterations to Buildings and other property...	7,000.00	
C. Equipment	9,000.00	
Motor Vehicles	4,000.00	
Other Equipment ..	5,000.00	
Prisoners' Compensation		15,000.00
A. Personal Services	15,000.00	
Waiakea Prison Camp, County of Hawaii		53,874.00
A. Personal Services	16,194.00	
B. Other Current Expenses	20,830.00	
C. Equipment	1,850.00	
Motor Vehicles	1,600.00	
Other Equipment ..	250.00	
E. Structures and Permanent Improvements to Land	15,000.00	
Buildings	15,000.00	
Any amounts not used for structures may be expended for equipment or repairs.		
Olinda Prison Camp, County of Maui		54,702.00
A. Personal Services	18,822.00	
B. Other Current Expenses	17,930.00	
C. Equipment	2,950.00	
Motor Vehicles	1,600.00	
Other Equipment ..	1,350.00	

E. Structures and Permanent Improvements to Land	15,000.00	
Buildings	15,000.00	
Any amounts not used for structures may be expended for equipment or repairs.		
Board of Paroles and Pardons.....		43,957.00
A. Personal Services	39,607.00	
B. Other Current Expenses	4,150.00	
C. Equipment	200.00	
Bureau of Crime Statistics and Identification		9,886.00
A. Personal Services	8,986.00	
B. Other Current Expenses	500.00	
C. Equipment	400.00	
Total: Department of Institutions.....		\$2,477,290.00

JUDICIAL DEPARTMENT

Supreme Court		\$77,036.00
A. Personal Services	\$36,336.00	
B. Other Current Expenses	26,200.00	
C. Equipment	14,500.00	
District Court of Kalawao.....		2,550.00
A. Personal Services	2,400.00	
B. Other Current Expenses	150.00	
Land Court		36,620.00
A. Personal Services	33,120.00	
B. Other Current Expenses	2,200.00	
C. Equipment	1,300.00	
Total: Judicial Department.....		\$116,206.00

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

General Administration		\$152,557.00
A. Personal Services	\$119,857.00	
B. Other Current Expenses	29,200.00	
C. Equipment	3,500.00	

Territorial Employment Service		30,000.00
B. Current Expenses	30,000.00	

For the purpose of maintaining public employment offices throughout the territory, which moneys shall be used for the matching of funds which may be allotted to the territory under the Act of Congress entitled: "An Act to Provide for the establishment of a National Employment System and for Cooperation with States in the Promotion of such System," approved June 6, 1933, as amended.

Total: Department of Labor and Industrial Relations		\$182,557.00
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LIBRARIES

Library of Hawaii		\$301,360.00
A. Personal Services	\$218,360.00	
B. Other Current Expenses	35,000.00	
C. Equipment	48,000.00	
Hilo Library		72,999.00
A. Personal Services	48,599.00	
B. Other Current Expenses	7,400.00	
C. Equipment	17,000.00	
Mauai County Free Library.....		80,448.00
A. Personal Services	47,162.00	
B. Other Current Expenses	10,000.00	
C. Equipment	18,286.00	
E. Structures and Permanent Improvements to Land	5,000.00	
Addition to Buildings	\$5,000.00	
Kauai Public Library Association, Ltd.		45,338.00
A. Personal Services	28,938.00	
B. Other Current Expenses	5,900.00	
C. Equipment	10,500.00	
Motor Vehicles	1,500.00	
Other Equipment ...	9,000.00	

Libraries participating in this appropriation, throughout all the islands, shall remain open between the hours of 9:00–12:00 in the morning, on Sundays and Legal Holidays.

Total: Libraries	<u>\$500,145.00</u>
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NATIONAL GUARD

National Guard	\$88,074.00
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A. Personal Services	\$50,374.00
Adjutant General	\$10,800.00
Other Personal Services	<u>39,574.00</u>

No employee who has been called into active service of the federal government during the present emergency shall receive any pay from this appropriation.

B. Other Current Expenses	24,000.00
B-1. Repairs and Alterations to Buildings and other property.....	9,000.00
C. Equipment	4,350.00
Motor Vehicles	1,250.00
Other Equipment	<u>3,100.00</u>

G. Capital Outlays for Rights and Obligations	<u>350.00</u>
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Refunds, Awards and Indemnities	<u>350.00</u>	、
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Total: National Guard	<u>\$88,074.00</u>
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PUBLIC ARCHIVES

Public Archives	\$37,453.00
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A. Personal Services	\$31,643.00
B. Other Current Expenses	4,560.00
C. Equipment	<u>1,250.00</u>

Total: Public Archives	<u>\$37,453.00</u>
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DEPARTMENT OF PUBLIC INSTRUCTION

General Administration		\$128,470.00
A. Personal Services	\$98,100.00	
Superintendent ..	\$14,400.00	
Director of		
Personnel	8,400.00	
Business Manager	8,400.00	
Other Personal		
Services	66,900.00	
B. Other Current Expenses	24,920.00	
C. Equipment	5,450.00	
Board of Examiners		800.00
A. Personal Services	50.00	
B. Other Current Expenses	700.00	
C. Equipment	50.00	
Insurance and Bonds		2,000.00
B. Other Current Expenses	2,000.00	
Field Expenses—General Items ...		44,500.00
B. Other Current Expenses	29,500.00	
C. Equipment	15,000.00	
Supplies and Equipment: Grades 1-6		85,485.00
B. Other Current Expenses	58,690.00	
C. Equipment	26,795.00	
Supplies and Equipment: Grades 7-9		68,515.00
B. Other Current Expenses	34,165.00	
C. Equipment	34,350.00	
Supplies and Equipment:		
Grades 10-12		51,250.00
B. Other Current Expenses	21,250.00	
C. Equipment	30,000.00	
Territorial School for Deaf and Blind		132,590.00
A. Personal Services	88,855.00	
B. Other Current Expenses	31,235.00	
C. Equipment	3,500.00	
E. Structures and Permanent		
Improvements to Land	9,000.00	

Division of Health Education.....		16,020.00
A. Personal Services	10,620.00	
B. Other Current Expenses	4,800.00	
C. Equipment	600.00	
Division of Dental Hygiene.....		109,940.00
A. Personal Services	101,340.00	
B. Other Current Expenses	7,900.00	
C. Equipment	700.00	
Division of Vocational Education..		12,300.00
B. Other Current Expenses	7,900.00	
C. Equipment	400.00	
F. Fixed Charges	4,000.00	
Grants, Subsidies and Contributions	4,000.00	
Honolulu Vocational School		7,810.00
A. Personal Services	2,310.00	
B. Other Current Expenses	2,100.00	
E. Structures and Permanent Improvements to Land	3,400.00	
Future Farmers of America.....		2,000.00
B. Other Current Expenses	2,000.00	
Future Homemakers of Hawaii....		2,000.00
B. Other Current Expenses	2,000.00	
Books for Indigent Children.....		7,000.00
B. Other Current Expenses	7,000.00	
For the same purposes as shown in Act 110, Session Laws 1939.		
School Expenses and Transporta- tion, Crippled Children		5,350.00
B. Other Current Expenses	3,850.00	
C. Equipment	1,500.00	
Division of Vocational Rehabilitation		20,380.00
A. Personal Services	6,770.00	
B. Other Current Expenses	13,410.00	
C. Equipment	200.00	
Total: General School Budget.....		\$ 696,410.00

Teachers' Salaries (Total)	12,581,364.00
A. Elementary Teachers	6,159,901.00
B. Intermediate Teachers	1,566,561.00
C. High School Teachers	1,816,974.00
D. Vocational Teachers	1,163,079.00
E. Principals (16 or more Assistants)	579,622.00
F. Supervisors	92,805.00
G. Secretaries	266,295.00
G-1. Increase available for classification of secretaries in accordance with Senate Concurrent Resolution No. 38.	21,000.00
H. Librarians	252,186.00
I. Substitutes	39,583.00
J. Automatic Increases	248,980.00
K. New Teachers	121,394.00
The last preceding item shall be expended for new teachers in such areas as reflect substantially increased enrollment due to the influx of military and naval personnel and emergency workers, and in substantially relative proportion thereto.	
L. Travel	23,268.00
M. Teachers' Salaries (Expendable to make up any deficiency in any of the above teachers' salary items)	229,716.00
Total: Department of Public Instruction.	<u>\$13,277,774.00</u>

PUBLIC LANDS AND SURVEY DEPARTMENT

Office of the Commissioner of Public Lands	\$239,530.00
A. Personal Services	\$207,030.00
Commissioner of Public Lands and Surveyor	\$14,400.00
Other Personal Services	<u>192,630.00</u>

B. Other Current Expenses	29,500.00	
C. Equipment	3,000.00	
Motor Vehicles	1,000.00	
Other Equipment ..	2,000.00	
Taxation Maps Bureau		57,998.00
A. Personal Services	51,998.00	
B. Other Current Expenses	5,200.00	
C. Equipment	800.00	
Division of Hydrography		83,104.00
A. Personal Services	29,454.00	
B. Other Current Expenses	10,780.00	
Other Current Expenses to be matched in like amount from federal funds	40,070.00	
C. Equipment	800.00	
Motor Vehicles	800.00	
Water Survey Kona	2,000.00	
Provided County of Hawaii makes available \$1,000.00 additional for this purpose.		
Total: Public Lands and Survey Department.....		\$380,632.00

DEPARTMENT OF PUBLIC WORKS

Superintendent of Public Works.....		\$59,590.00
A. Personal Services	\$51,795.00	
Superintendent	\$14,400.00	
Other Personal Services	37,395.00	
B. Other Current Expenses	6,795.00	
C. Equipment	1,000.00	
Public Buildings and Grounds Service.		135,483.00
A. Personal Services	115,307.00	
B. Other Current Expenses	17,500.00	
C. Equipment	2,676.00	
Structures, Additions, Maintenance, Repairs to and Tearing Down or Re- moval of Government Property (in-		

cluding Airports, Armories, War Memorials) and Improvements to Grounds		233,578.00
A. Personal Services	48,478.00	
B. Other Current Expenses	170,000.00	
Repairs Hulihee Palace and Custodian's Home	1,000.00	
Other Current Expenses	169,000.00	
C. Equipment	15,100.00	
Motor Vehicles	3,400.00	
Other Equipment ...	11,700.00	
Governor's Office and Washington Place .		3,000.00
C. Equipment	3,000.00	
Total: Department of Public Works.....		<u>\$431,651.00</u>

RADIO COMMISSION

Radio Commission		\$40,173.00
A. Personal Services	\$31,273.00	
B. Other Current Expenses	7,450.00	
C. Equipment	1,450.00	
Total: Radio Commission		<u>\$40,173.00</u>

DEPARTMENT OF SECRETARY OF HAWAII

Secretary's Office		\$29,569.00
A. Personal Services	\$24,829.00	
B. Current Expenses	4,600.00	
"Star Annotation Service"	\$2,000.00	
Other Current Expenses	2,600.00	
C. Equipment	140.00	
Expenses of Elections		35,400.00
A. Personal Services	24,400.00	
B. Other Current Expenses	10,000.00	
C. Equipment	1,000.00	

Publication Session Laws of Hawaii....		13,000.00
A. Personal Services	1,000.00	
B. Other Current Expenses	12,000.00	
Additional Compensation, Secretary of Hawaii, Act 180, Session Laws of 1937		3,400.00
A. Personal Services	3,400.00	
Total: Department of Secretary of Hawaii.....		\$81,369.00

BUREAU OF SIGHT CONSERVATION AND WORK
 WITH THE BLIND

Bureau of Sight Conservation and Work with the Blind		\$84,058.00
To be expended by the Department of Public Welfare with the approval of the Governor of Hawaii.		
A. Personal Services	\$44,288.00	
B. Current Expenses	17,170.00	
Shop Revolving Fund..	\$5,500.00	
Eye Glass and Medical Care	1,000.00	
Other Current Expenses	10,670.00	
C. Equipment	2,600.00	
Motor Vehicles	1,300.00	
Vending Stand Estab- lishment Fund	300.00	
Other Equipment	1,000.00	
E. Structures and Permanent Improvements to Land	20,000.00	
Buildings	20,000.00	
Total: Bureau of Sight Conservation and Work with the Blind		\$84,058.00

TAX COMMISSIONER'S DEPARTMENT

Tax Commissioner's Office		\$982,062.00
A. Personal Services	\$787,062.00	
Tax Commissioner	\$14,400.00	
Other Personal Services	772,662.00	

B. Other Current Expenses	120,000.00	
C. Equipment	75,000.00	
Motor Vehicles ...	5,000.00	
Other Equipment .	70,000.00	
Litigation Expenses		5,000.00
B. Current Expenses	5,000.00	
Boards of Review and Tax Appeal		
Courts		25,000.00
B. Current Expenses	25,000.00	
Total: Tax Commissioner's Department.....		\$1,012,062.00

TREASURY DEPARTMENT

Treasurer's Office		\$71,441.00
A. Personal Services	\$59,691.00	
Treasurer	\$14,400.00	
Other Personal		
Services	45,291.00	
B. Other Current Expenses	11,000.00	
C. Equipment	750.00	
Deputy Bank Examiner		84,345.00
A. Personal Services	74,045.00	
B. Other Current Expenses	10,000.00	
C. Equipment	300.00	
Insurance Commissioner		10,824.00
A. Personal Services	6,724.00	
B. Other Current Expenses	3,850.00	
C. Equipment	250.00	
Bureau of Conveyances		134,762.00
A. Personal Services	114,432.00	
B. Other Current Expenses	14,000.00	
C. Equipment	6,330.00	
Expenses, Official Bonds		15,000.00
B. Current Expenses	15,000.00	
Public Debt Service		15,595.00
B. Current Expenses	15,595.00	

Interest on Funded Debt.....	2,363,358.00
F. Fixed Charges	2,363,358.00
Sinking Funds and Redemption of Existing Indebtedness	2,547,790.00
F. Fixed Charges	2,547,790.00
Transfer to Territorial Insurance Fund	40,000.00
F. Fixed Charges	40,000.00
Total: Treasury Department	\$5,283,115.00

UNIVERSITY OF HAWAII

University of Hawaii \$1,093,600.00

All functions expendable at the direction and under the supervision of the Board of Regents of the University of Hawaii. Provided, however, that the amount of this appropriation necessary to match allotments made by the federal government for extension work shall be payable to the University of Hawaii in total, by single warrant, or by several warrants, representing periodical allotments. Provided, further, that disbursements matching federal allotments may be regularly audited by the federal auditor and shall be subject to the same limitations as respects the character of expenditures of the federal funds which it offsets, and provided further that \$2,000.00 shall be expended for rat eradication in Kona and that one additional employee of animal husbandry at \$275.00 per month be employed, and provided further that this amount shall be inclusive of the sum of \$10,000.00 for volcanology, provided further that the university may employ a volcanologist without consideration as to age, any other provision of law to the contrary notwithstanding.

Total: University of Hawaii..... \$1,093,600.00

GRAND TOTAL OF TOTALS.....\$32,012,377.00

Section 2. Changes and transfers may be made by the head of a department or establishment with the approval of the Governor, with the foregoing schedule of appropriations, for any organization unit of such department or establishment, as to "Personal Services," "Other Current Expenses," "Repairs and Alterations to Buildings and Other Property" or "Equipment." Provided, however, that, in cases where no appropriation is made for "Repairs and Alterations to Buildings and Other Property" or "Equipment" for such organization unit of a department or establishment, the head of such department or establishment may, with the approval of the Governor, create such appropriation by changes or transfers from "Personal Services" or "Other Current Expenses" or both.

Section 3. With the exception of government physicians and bacteriologists, no other officer or employee in the territorial service or in the service of any county or city and county in receipt of a salary, wage or other compensation or remuneration of \$100.00 or more per month shall receive any additional salary, wage or other compensation or remuneration out of any moneys herein appropriated unless otherwise specifically provided for herein. Provided, however, that the combined salaries of a government physician or a bacteriologist received from more than one governmental source shall, in no event, exceed the total sum of \$400.00 per month.

Section 4. If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act. The legislature hereby declares that it would have approved this Act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid. If the application of any provision of this Act to any person or circumstance is held invalid, the application of such provision to other persons or circumstances shall not be affected thereby.

Section 5. No employee receiving remuneration from the above sources shall accept any employment for remuneration, either private or public, during any vacation granted pursuant to Sections 103-104 of the Revised Laws of Hawaii 1935, or during any sick leave granted pursuant to Section 105 of said Revised Laws. Any employee violating the provisions of this section shall forfeit his position, and shall be ineligible to reemployment in the same department for a period of one year.

Section 6. Any excess of funds within the foregoing sched-

ule of appropriations for any organization unit of such department or establishment, as to "Personal Services," over and above the following amounts, to wit, (a) the amounts contained and set forth in the budget submitted to the legislature by the Governor pursuant to law for any such organization unit on account of "Personal Services," and (b) the amounts required and made necessary by the creation and allowance of new positions by the present legislature and provided for herein for the organization unit under "Personal Services," and (c) the amounts provided herein under "Personal Services" and representing increases in salary and compensation of specifically designated positions, shall be made available and be expendable for compensation adjustments as provided for under the provisions of House Bill No. 34, if said bill becomes law. Such excess shall be determined as of July 1, 1941, by the Director of the Bureau of the Budget with the cooperation of the heads of the various territorial departments and establishments and, with the approval of the Governor, shall become available and expendable as above provided.

Section 7. This Act shall take effect from and after July 1, 1941.

(Approved May 17, 1941.) **H.B. 31, Act 273.**

[E-258] An Act Making Appropriations for the Current Biennium Out of the General Revenues of the Territory in Augmentation of or in Addition to Those Made by Act 244 of the Session Laws of Hawaii 1939.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There are hereby appropriated for the biennium ending June 30, 1941, out of the general revenues of the territory, in augmentation of or in addition to the appropriations made for the same or similar purposes by Act 244, Series E-194, of the Session Laws of Hawaii 1939, the following amounts for the following respective purposes:

Governor's contingent fund.....	\$25,000.00
Superintendent of public works	
Structures, additions, maintenance, repairs to and tearing down or removal of government property (including airports, armories, war memorials) and improvements to grounds..	7,934.24

Building and/or equipment at Puumaile Home, to be expended by the managing committee...	33,600.00
Repairs and improvements to the National Guard camp site on Maui.....	27,000.00
TOTAL	<u>\$93,534.24</u>

Section 2. This Act shall take effect upon its approval.

(Approved April 21, 1941.) **H.B. 227, Act 68.**

[E-259] An Act to Amend Act 244 of the Session Laws of Hawaii 1939, Relating to General Appropriations for the Biennium 1939-1941, to Further Provide for Repairs and Maintenance of Government Property.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 244 of the Session Laws of Hawaii 1939 is hereby amended by adding a new section thereto, to be numbered section 2-A, to read as follows:

“Section 2-A. Where funds are not available for the repair and maintenance of government property under the appropriation for ‘Structures, additions, maintenance, repairs to and tearing down or removal of government property (including airports, armories, war memorials) and improvements to grounds’ the head of a department or establishment may, with the approval of the governor, expend funds from the appropriation ‘other current expenses’ for such organization unit of a department or establishment for such purposes.”

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1941.) **S.B. 10, Act 221.**

[E-260] An Act Making an Appropriation for Current Expenses for Kawaihoa Training School for Girls to Meet the Deficiency in the 1939-41 Biennium Appropriation.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the sum of twenty-nine hundred dollars (\$2,900.00), or as much thereof as may be necessary, is hereby

appropriated out of money available in the treasury of the Territory of Hawaii, for Kawaiiloa Training School for Girls, "B—Other Current Expenses", to meet the deficiency in 1939–41 biennium, Act 244, Session Laws of Hawaii 1939, Appropriations General.

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1941.) **S.B. 542, Act 233.**

[E-261] An Act to Amend Act 203 of the Session Laws of Hawaii 1935, as Amended, Relating to Public Improvements and Providing for the Issuing of Territorial Bonds Therefor, by Deleting Therefrom One Item of Territorial Bonds, and Adding Thereto Provisions Authorizing the Issuance of Certain County Bonds for Additional Public Improvements.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 203, Series E-182, of the Session Laws of Hawaii 1935, as amended by Act 228, Series E-178, of the Session Laws of Hawaii 1937, is hereby amended:

(a) By inserting immediately after the enacting clause of said Act a subtitle reading as follows: "PART I. TERRITORIAL BONDS.";

(b) By deleting from section 2 thereof, as so amended, item 26a, reading:

"26a. Roads, Lanai 20,000.00";

(c) By adding to said Act at the end thereof a new subtitle reading as follows:

"PART II. COUNTY BONDS.

Section 6. The County of Maui is hereby authorized and empowered to issue, in accordance with the provisions of Act 272 of the Session Laws of Hawaii 1927, bonds in any amount not exceeding the total of the items hereinafter set forth, said bonds to be serial bonds maturing in substantially equal annual installments, the first installment to mature in five years from the date of issue of the particular series and the last installment not later than thirty years from such date of issue,

the moneys realized from said bonds so issued to be expended as follows:

1. Roads, Lanai\$ 75,000.00
2. Water development and enlargement, Kula
pipe line 225,000.00.

Section 7. The amount required for the payment of the principal and interest upon the bonds so issued, the proceeds of which shall be expended for item 1 of section 6 of this Act, shall, to the extent of moneys available to the County of Maui for such purposes in such fund, be paid out of the fuel tax clearance fund created by section 2021 of the Revised Laws of Hawaii 1935, as amended, and any balance not covered out of said moneys, shall be paid out of real property tax collections for said county.

Section 8. The item required for the payment of the principal and interest upon the bonds so issued, the proceeds of which shall be expended for item 2 above, shall be paid out of the real property tax collections for the County of Maui.

Section 9. The amounts necessary for the payment of the principal and interest upon any bonds so issued shall be included in the real property tax rate budget for said county pursuant to section 1921 of the Revised Laws of Hawaii 1935, as amended.

Section 10. Nothing herein contained shall require the issuance of bonds in the full amount authorized herein or prevent the issuance of bonds in such amount as may be required from time to time, provided the sum total of said issues does not exceed the total amount authorized in this subtitle.

Section 11. Nothing in this subtitle contained shall be deemed to supersede any provisions of any other law authorizing expenditure of moneys in connection with federal aid funds, and, in the event such federal aid funds are so available, the moneys appropriated for any project authorized by this subtitle shall, at the option of the board of supervisors of said county, be available to match such federal aid funds.

Section 12. The provisions of Part I of this Act shall not apply to this subtitle."

Section 2. This Act shall take effect upon its approval.

(Approved May 21, 1941.) **H.B. 453, Act 330.**

[E-262] An Act to Provide for the Creation and Expansion of Vocational Schools, for Buildings, Improvements and Equipment for Such Schools, for the Establishment of Industrial Courses in High Schools and for Equipment to Be used in Connection Therewith, and Making and Providing for the Manner of Expenditure of Appropriations for Said Purposes and for Additional Personnel.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There are hereby appropriated out of the general revenues of the territory the following respective amounts for the following respective purposes:

Hawaii Vocational School	
Equipment	\$20,550.00
New Buildings, Additions and Improvements	15,000.00
Maui Vocational School	
Equipment	11,800.00
Honolulu Vocational School	
Equipment	10,000.00
New Buildings, Additions and Improvements	10,000.00
Kauai Vocational School	
Equipment	10,000.00
New Buildings, Additions and Improvements	25,000.00

Section 2. The amounts hereinabove appropriated for equipment, buildings, additions and improvements shall be expended upon vouchers approved by the superintendent of public instruction or his duly authorized subordinate, and any part or all of the work in connection with the construction or installation of any of said equipment, buildings, additions and improvements may be performed by students attending the schools concerned. In the expenditure of said items the department of public instruction shall not be required to comply with the provisions of chapter 4, as amended, of the Revised Laws of Hawaii 1935, but may at its option adopt and follow any of the practices prescribed in said chapter as the department deems advisable.

Section 3. In order adequately to staff the additional vocational school program authorized by this Act, there is hereby appropriated out of said general revenues for the biennium ending June 30, 1943, the sum of \$19,200.00 for the following additional vocational instructors:

Hawaii Vocational School.....	2
Honolulu Vocational School.....	1
Kauai Vocational School.....	1

Any instructors or teachers employed by the department of public instruction in any vocational school may be required to supervise the construction or installation of any of the aforesaid equipment, buildings, additions and improvements at such school.

Section 4. There are hereby appropriated out of the general revenues of the territory the following respective amounts for equipment, including installation, to be used in the conduct of industrial courses in the following respective high schools:

Oahu:

McKinley High School.....	\$12,556.00	
Roosevelt High School.....	3,836.00	
Farrington High School.....	8,510.00	
Waipahu High School.....	3,353.00	
Leilehua High School.....	3,299.00	
Waialua High School.....	2,911.00	
Kahuku High School.....	2,508.00	
Benjamin Parker High School...	2,508.00	\$39,481.00

Kauai:

Kauai High School.....	3,238.00	
Waimea High School.....	3,028.00	6,266.00

Maui County:

Maui High School.....	4,882.00	
Baldwin High School.....	5,188.00	
Molokai High School.....	316.00	
Lanai High School.....	527.00	10,913.00

Hawaii:

Konawaena High School.....	4,386.00	
Kohala High School.....	3,036.00	
Pahala High School.....	1,338.00	
Honokaa High School.....	1,338.00	
Laupahoehoe High School.....	1,338.00	
Hilo High School.....	6,004.00	17,440.00

Total.....		\$74,100.00
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Section 5. Any unexpended balance of any item appropriated under section 4 hereof may be transferred by the department of public instruction to and expended for, any other item of said section for which the appropriation made is found to be insufficient.

Section 6. All amounts appropriated by this Act shall be deemed to be in addition to any appropriations made by any other Act enacted at the current session of this legislature.

Section 7. This Act shall take effect upon its approval.

(Approved May 16, 1941.) **H.B. 24, Act 271.**

[E-263] An Act to Provide for the Establishment and Expansion of Instruction in Vocational Agriculture, Diversified Farming and Farm Mechanics in the Public Schools of the Territory of Hawaii for Buildings, Livestock, Equipment and Supplies to Be Used in Connection Therewith, and for Additional Personnel and Making Appropriations Therefor.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There are hereby appropriated out of the general revenues of the territory for the biennium ending June 30, 1943, the following respective amounts for the following respective purposes:

1. In order to create, establish, continue and conduct experimental school farms at the following schools and to qualify the same for benefits under Smith-Hughes and other federal legislation pertinent thereto:

OAHU:

(a) Benjamin Parker High and Elementary:

Equipment and supplies.....	\$ 9,000.00	
Purchase of livestock.....	1,000.00	
Student labor (summers and holidays)	1,500.00	\$11,500.00

MOLOKAI:

(b) Molokai High and Elementary:

Equipment and supplies.....	7,000.00	
Purchase of livestock.....	2,000.00	
1 new cottage (dormitory)....	4,000.00	
Student labor (summers and holidays)	3,000.00	16,000.00

MAUI:

(c) Maui High:

Equipment and supplies.....	3,500.00	
Purchase of livestock.....	1,000.00	
Student labor (summers and holidays)	1,500.00	6,000.00

HAWAII:

(d) Honokaa High and Elementary:

Equipment and supplies.....	10,000.00	
Purchase of livestock.....	1,000.00	
Student labor (summers and holidays)	1,500.00	12,500.00

KAUAI:

(e) Waimea High and Elementary:

Equipment and supplies.....	5,000.00	
Purchase of livestock.....	1,000.00	
Student labor (summers and holidays)	1,500.00	7,500.00

(f) Kapaa Technical and Agricultural
High School:

Equipment and supplies.....	15,000.00	
Purchase of livestock.....	3,000.00	
(the above two items to be used when the County of Kauai provides adequate buildings)		
Student labor (summers and holidays)	3,000.00	21,000.00

TOTAL		\$74,500.00
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2. In order to expand vocational agriculture, diversified farming and farm mechanics in the following schools, and to qualify the same for benefits under such Smith-Hughes and other federal legislation pertinent thereto:

OAHU:	\$17,700.00
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Aiea School

Equipment and supplies.....	1,500.00
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Ewa School

Equipment and supplies.....	800.00
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Kailua School

Equipment and supplies.....	1,000.00
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Leilehua High and Elementary School

Equipment and supplies.....	1,500.00
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Helemano School	
Equipment and supplies.....	900.00
Kahuku High and Elementary School	
Equipment and supplies.....	3,000.00
Waiahole School	
Equipment and supplies.....	1,000.00
Waialua High and Intermediate School	
Equipment and supplies.....	3,000.00
Waianae School	
Equipment and supplies.....	1,000.00
Waipahu High and Intermediate School	
Equipment and supplies.....	1,500.00
McKinley High School	
Equipment and supplies.....	1,500.00
Washington Intermediate School	
Equipment and supplies.....	1,000.00
MOLOKAI:	\$ 1,500.00
Kilohana Elementary and Interme- diate School	
Equipment and supplies.....	1,500.00
MAUI:	\$ 8,000.00
Haiku School	
Equipment and supplies.....	3,000.00
Henry Perrine Baldwin High School	
Equipment and supplies.....	2,000.00
Makawao School	
Equipment and supplies.....	1,500.00
Paia School	
Equipment and supplies.....	1,500.00
HAWAII:	\$19,200.00
Hakalau Elementary and Intermediate School	
Equipment and supplies.....	1,000.00
Hilo High School	
Equipment and supplies.....	1,100.00
Hilo Intermediate School	
Equipment and supplies.....	1,100.00
Honomu School	
Equipment and supplies.....	1,000.00
Kalaniana'ole Elementary and Inter- mediate School	
Equipment and supplies.....	1,000.00

Kohala High and Elementary School		
Equipment and supplies.....	2,000.00	
Konawaena High and Elementary School		
Equipment and supplies.....	2,000.00	
Laupahoehoe High and Elementary School		
Equipment and supplies.....	1,000.00	
Mountain View School		
Equipment and supplies.....	800.00	
Naalehu Elementary and Intermediate School		
Equipment and supplies.....	1,000.00	
Olaa Elementary and Intermediate School		
Equipment and supplies.....	1,400.00	
Paauilo School		
Equipment and supplies.....	1,400.00	
Pahala High and Elementary School		
Equipment and supplies.....	1,400.00	
Pahoa Elementary and Intermediate School		
Equipment and supplies.....	1,200.00	
Pepeekeo School		
Equipment and supplies.....	1,000.00	
Waiakeauka School		
Equipment and supplies.....	800.00	
KAUAI:	\$ 4,400.00	
Eleele School		
Equipment and supplies.....	1,700.00	
Kalaheo Elementary, Intermediate and Vocational School		
Equipment and supplies.....	500.00	
Kekaha School		
Equipment and supplies.....	1,300.00	
Lihue School		
Equipment and supplies.....	900.00	
TOTAL.....		\$50,800.00

Section 2. The amounts hereinabove appropriated for equipment, supplies, buildings, additions and improvements shall be expended upon vouchers approved by the superintendent of public instruction or his duly authorized subordinate, and any part or all of the work in connection with the

construction or installation of any of said equipment, supplies, buildings, additions and improvements may be performed by students attending the schools concerned. In the expenditure of said items the department of public instruction shall not be required to comply with the provisions of chapter 4, as amended, of the Revised Laws of Hawaii 1935, but may at its option adopt and follow any of the practices prescribed in said chapter as the department deems advisable.

Section 3. In order to provide an adequate staff for the additional and expanded program of instruction in vocational agriculture, diversified farming and farm mechanics, authorized by this Act, there is hereby appropriated out of said general revenues for the biennium ending June 30, 1943, the sum of \$10,200.00 for the following additional instructors:

Benjamin Parker High and Elementary School.....	1
Molokai High and Elementary School.....	1
Kapaa Technical and Agricultural High School.....	1

Any instructors or teachers employed by the department of public instruction in any vocational farm school may be required to supervise the construction or installation of any of the aforesaid equipment, supplies, buildings, additions and improvements at such school.

Section 4. Any unexpended balance of any item appropriated under section 1 hereof may be transferred by the department of public instruction to and expended for, any other item of said section for which the appropriation made is found to be insufficient.

Section 5. All amounts appropriated by this Act shall be deemed to be in addition to any appropriations made by any other Act enacted at the current session of this legislature or any extension thereof.

Section 6. This Act shall take effect upon its approval.

(Approved May 21, 1941.) **H.B. 208, Act 328.**

[E-264] An Act to appropriate the Sum of Sixteen Thousand Dollars (\$16,000.00) for the Vocational Rehabilitation of Persons Disabled in Industry or Otherwise, Who Are Over School Age and Confined in Tubercular Hospitals or Tubercular Sanitariums.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated out of the general revenues of the Territory of Hawaii, not otherwise appropriated, the sum of sixteen thousand dollars (\$16,000.00) or so much thereof as may be necessary. This money shall be under the jurisdiction of the territorial board for vocational education and shall be used by it in carrying on the rehabilitation program for those persons disabled in industry or otherwise who are over school age and confined in tubercular hospitals or tubercular sanitariums in the Territory of Hawaii, and it shall not be used for any other purpose.

Section 2. Any provision regarding federal aid and the "matching" of federal funds with territorial funds for vocational rehabilitation purposes as set forth in chapter 245-A, Session Laws of Hawaii 1935, shall have no application to the appropriation herein made by this Act, and the aforesaid sum of sixteen thousand dollars (\$16,000.00) is expressly appropriated without regard to the provisions of the Act of Congress, approved June 2, 1920, entitled "An Act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to productive employment", as amended (Public No. 236-66 Congress).

Section 3. The territorial treasurer is hereby designated custodian of all funds allotted to the territorial board for vocational education under the terms of this Act, and shall receive and provide for the proper custody and disbursement of the same in accordance with law.

Section 4. Any remaining unexpended balance of the appropriation made under section 1 of this Act shall, at the biennium ending June 30, 1943, revert to the general fund of the Territory.

Section 5. The sixteen thousand dollars (\$16,000.00) appropriated by this Act shall be deemed to be in addition to any appropriations made by any other Act enacted at the current session of this legislature.

Section 6. This Act shall take effect on its approval, pro-

SERIES E-264.—ACT 159]

SERIES E-265.—ACT 238]

SERIES E-266.—ACT 199]

viding the appropriation made herein shall be made available for the purposes set forth in section 1 of this Act on July 1, 1941.

(Approved May 5, 1941.) **S.B. 469, Act 159.**

[E-265] An Act Making an Appropriation for the Lahainaluna Boarding School.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general revenues of the Territory of Hawaii, the sum of twenty-eight thousand nine hundred forty-eight dollars (\$28,948.00) for the Lahainaluna Boarding School to be expended as follows: twenty-five thousand dollars (\$25,000.00) for the support of said school, and three thousand nine hundred forty-eight dollars (\$3,948.00) for equipment.

Section 2. This Act shall take effect upon its approval.

(Approved May 14, 1941.) **H.B. 71, Act 238.**

[E-266] An Act Appropriating One Hundred Fifty Thousand Dollars (\$150,000.00) for Erection of a "Treatment Unit and Equipment" for Recoverable Cases, Territorial Hospital, Kaneohe, City and County of Honolulu.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of one hundred fifty thousand dollars (\$150,000.00) or as much thereof as may be necessary, is hereby appropriated from the general revenues of the Territory of Hawaii not otherwise appropriated, for the erection of a "Treatment Unit and Equipment" for recoverable cases, at the Territorial Hospital, Kaneohe, city and county of Honolulu.

Section 2. The aforesaid sum or as much thereof as may be necessary, shall be disbursed by the treasurer, upon warrants drawn by the auditor based upon vouchers approved by the director of institutions.

Section 3. This Act shall take effect upon its approval.

(Approved May 10, 1941.) **S.B. 409, Act 199.**

[E-267] An Act Making Annual Appropriations for the National Conference of Commissioners on Uniform State Laws.

Whereas, the object of the national conference of commissioners on uniform state laws is (1) to promote uniformity of state laws on all subjects where uniformity is deemed desirable and practicable; (2) to draft model acts; and (3) to promote uniformity of judicial decision throughout the United States; and

Whereas, the national conference of commissioners on uniform state laws for over fifty years has diligently endeavored to effectuate its object and has drafted for state and territorial action many uniform acts; and

Whereas, the commission for the Territory to promote uniformity of legislation in the United States is charged with the duty, under section 31 of the Revised Laws of Hawaii 1935, to examine all subjects upon which uniformity of legislation in the several states and territories is desirable, to ascertain and recommend the best means to effectuate such uniformity and to represent the Territory in conventions of like commissioners of the several states and territories for the consideration and recommendation of uniform laws to be submitted to the several state and territorial legislatures for action; and

Whereas, the commission for the Territory to promote uniformity of legislation in the United States in the discharge of its duties has constantly received the services and assistance of the national conference of commissioners on uniform state laws; and

Whereas, the Territory has and continues to have the benefit of the valuable work of the national conference of commissioners on uniform state laws, and, as a result, has, by enacting many of the acts prepared by such national conference of commissioners, been able to make many of the important laws of the Territory uniform with those of states and other territories; and

Whereas, although the expense of the work of the national conference of commissioners on uniform state laws has been met, in part, by appropriations made by legislatures of the several states, the Territory has never contributed or paid for the services and assistance received by it and has received and continues to receive such services and assistance without payments therefor; now, therefore,

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the annual sum of one hundred fifty dollars (\$150.00) is hereby appropriated from the general fund which sum shall be paid annually on July 1 of each year for the ensuing fiscal year for and to the national conference of commissioners on uniform state laws for its objects above recited and in payment for the services and assistance received from it by the Territory. This appropriation and the said payments shall continue in effect and be made as long as the commission for the Territory to promote uniformity of legislation in the United States continues to receive in the discharge of its duties substantially the same services and assistance from the said national conference of commissioners on uniform state laws as it has received and now receives.

Section 2. Such moneys shall be paid by the treasurer upon warrants issued by the auditor upon vouchers approved by the commission for the Territory to promote uniformity of legislation in the United States.

Section 3. This Act shall take effect upon its approval.

(Approved May 9, 1941.) **S.B. 503, Act 192.**

[E-268] An Act Appropriating \$20,000.00 From the Territorial General Fund, by Way of Advancement, for a Locker Room at the University of Hawaii.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the territorial general fund the sum of twenty thousand dollars (\$20,000.00), expendable upon vouchers approved by the superintendent of public works, for the construction of a locker room at the University of Hawaii.

Section 2. The moneys herein appropriated shall be deemed an advancement, and shall be repayable without interest into the territorial general fund by the associated students of the University of Hawaii at the rate of two thousand dollars (\$2,000.00) annually, said payments to be made on or before June 30th of each year beginning with the year 1942.

Section 3. This Act shall take effect on July 1, 1941.

(Approved May 21, 1941.) **H.B. 509, Act 331.**

[E-269] An Act Appropriating Territorial Funds to the Bureau of Crippled Children Fund.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the territorial general fund the sum of twenty-five thousand dollars (\$25,000.00), in each of the years of the 1941-43 biennium, to be credited to the "bureau of crippled children fund" as created by, and for the purposes specified in, Chapter 27A of the Revised Laws of Hawaii 1935, as enacted by Act 179, Series A-21, of the Session Laws of Hawaii 1939.

Section 2. This Act shall take effect on July 1, 1941.

(Approved May 19, 1941.) **H.B. 493, Act 283.**

[E-270] An Act Appropriating the Sum of Eight Thousand Two Hundred Dollars (\$8,200.00) From the General Revenues of the Territory for the Superintendent of Public Works for the Purpose of Enabling Him to More Effectively Regulate Explosives and the Use and Storage Thereof.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of eight thousand two hundred dollars (\$8,200.00) is hereby appropriated out of the general revenues of the territory not otherwise appropriated, for the purposes hereinafter specified:

a. Construction of two magazines for the storage of explosives, roadways, fences and keeper's sheds	\$4,000.00
b. Personal Services (magazine keeper and explosives inspector)	4,200.00
Total	<u>\$8,200.00</u>

Section 2. The aforesaid sums shall be expended upon warrants drawn by the auditor upon vouchers approved by the superintendent of public works.

Section 3. This Act shall take effect upon July 1, 1941.

(Approved May 19, 1941.) **H.B. 462, Act 281.**

[E-271] An Act to appropriate Four Thousand Dollars (\$4,000.00) to Be Used for Recreational Purposes by the United States Army Regiments Constituted From the Hawaii National Guard.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated out of the general funds of the Territory four thousand dollars (\$4,000.00), which shall be divided equally between the 298th and 299th Regiments of the United States Army Regiments constituted from the Hawaii National Guard.

Section 2. The said four thousand dollars (\$4,000.00) shall be used primarily and solely for recreational purposes and shall be expended at the discretion of the commanding officer of each regiment. The aforesaid sum shall be disbursed by the treasurer upon warrants drawn by the auditor based upon vouchers approved by the commanding officers of the respective regiments.

Section 3. Any moneys not expended, appropriated or spent within an eight-month period commencing with the date of approval of this Act, shall revert to the treasury of the Territory of Hawaii.

Section 4. This Act shall take effect upon its approval.

(Approved May 16, 1941.) **S.B. 251, Act 266.**

[E-272] An Act Making an Appropriation for the Acquisition of Property and Other Expenditures in Connection With the Improvement of Keehi Lagoon for Use as a Seaplane Harbor, and Providing for Eminent Domain Proceedings Therefor.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of one hundred thousand dollars (\$100,000.00) is hereby appropriated from the general revenues of the territory, not otherwise appropriated, for the acquisition of any or all property or interests in property necessary to be acquired for the improvement of Keehi Lagoon, Oahu, for use as a seaplane harbor, including means of ingress thereto and egress therefrom and spoil-disposal areas for said project, and for any expenditure necessary to procure the release or satisfaction of claims for damages arising out of said

project, or necessary in connection with said project, to the extent of the appropriation made by this Act. Any amounts within this appropriation not needed for property or property interests as determined by the superintendent of public works, may be expended for incidental improvements that may arise in connection with the Keehi Lagoon Project.

Section 2. The moneys appropriated by this Act shall be expended upon vouchers approved by the superintendent of public works, who shall take all necessary steps to accomplish the purposes of this Act to the extent of the moneys appropriated by this Act. In the event said purposes cannot be accomplished by voluntary transactions with the persons concerned the superintendent of public works is hereby directed to institute eminent domain proceedings for said purposes, provided, that negotiations for the accomplishment of the purposes of this Act by voluntary transactions shall not be required before the institution of eminent domain proceedings. The legislature hereby declares that the provision of a sea-plane harbor at Keehi Lagoon is a public use for which the taking of private property and interests in property is necessary.

Section 3. Nothing herein shall be deemed to be a waiver of the immunity of the territory from suit.

Section 4. This Act shall take effect upon its approval.

(Approved March 19, 1941.) **H.B. 157, Act 3.**

[E-273] An Act to appropriate the Sum of Ten Thousand Dollars (\$10,000.00) Out of the General Revenues of the Territory of Hawaii by Way of Advancement to Acquire All Outstanding Interests in a Certain Tract of Land Now in the Possession of the Territory and Situated Between the Ala Wai Canal, Kalakaua Avenue, and Kapiolani Boulevard, in Honolulu, Oahu, Territory of Hawaii.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of ten thousand dollars (\$10,000.00), or so much thereof as shall be necessary, is hereby appropriated by way of advancement out of the general revenues of the Territory of Hawaii, not otherwise appropriated, for the purpose of acquiring all outstanding interests in a certain tract of

land now in the possession of the Territory and situated between the Ala Wai Canal, Kalakaua Avenue and Kapiolani Boulevard, Honolulu, Oahu, Territory of Hawaii.

Section 2. The said sum of ten thousand dollars (\$10,000.00), shall be disbursed on warrants drawn by the auditor of the Territory of Hawaii and based upon vouchers approved by the commissioner of public lands.

Section 3. The money hereby appropriated shall be deemed to be an advance out of the general revenues of the Territory, said fund to be reimbursed from the proceeds of the sale of public lands on the Island of Oahu.

Section 4. This Act shall take effect upon its approval.

(Approved May 19, 1941.) **S.B. 511, Act 300.**

[E-274] An Act Making an Appropriation From the General Revenues of the Territory of Hawaii for a New Building or Unit Adjacent to Oahu Prison and for Furnishings and Equipment Therefor.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general revenues of the Territory of Hawaii not otherwise appropriated, the sum of seventeen thousand dollars (\$17,000.00) to be expended by the director of institutions, with the approval of the governor, as follows:

For the construction, by prison labor, if available, otherwise by construction contract, of a building adjacent to Oahu Prison for the housing and use of the board of paroles and pardons, and for furnishings and equipment therefor. . . \$17,000.00

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1941.) **H.B. 424, Act 297.**

[E-275] An Act Appropriating the Sum of Ten Thousand Dollars (\$10,000.00) From the General Revenues of the Territory for Extensions, Improvements and Equipment to and for the Judiciary Building, Honolulu.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of ten thousand dollars (\$10,000.00) is hereby appropriated out of the general revenues of the Territory not otherwise appropriated, for extensions and improvements to and equipment for the Judiciary Building, Honolulu.

Section 2. This sum shall be expended by and under the superintendent of public works upon warrants issued by the auditor upon vouchers approved by the said superintendent of public works.

Section 3. This sum as so appropriated shall be in addition to any and every sum heretofore appropriated for the above objects and purposes, and the contract for extension of and improvements to the Judiciary Building, already awarded, shall be increased by so much of the amount appropriated by this Act as shall be necessary to bring the amount of the contract to the lowest lump sum bid on the entire project for which bids were originally called under the authorization of and appropriation in Act 247, Session Laws of Hawaii 1937, and the requirements of said contract shall be increased to cover the entire labor and material included in such lump sum bid, any other provision of law to the contrary notwithstanding.

Section 4. This Act shall take effect upon its approval.

(Approved May 3, 1941.) **S.B. 136, Act 151.**

[E-276] An Act Appropriating Eight Thousand Dollars (\$8,000.00), for Expenditure During the Years 1941 and 1942 by the Kamehameha Day Commission.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general revenues of the Territory the sum of eight thousand dollars (\$8,000.00), which is hereby allotted to cover expenses of Ka-

SPECIAL APPROPRIATIONS.

SERIES E-276.—ACT 118]

SERIES E-277.—ACT 117]

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mehameha Day celebrations, said allotments to be made in the following manner:

(1)	For Oahu	\$4,000.00
(2)	For Hawaii	1,300.00
(3)	For Maui	1,150.00
(4)	For Molokai	300.00
(5)	For Kauai	1,150.00
(6)	For Lanai	100.00
Total		\$8,000.00

Section 2. The amount herein appropriated and allotted in the above manner shall cover all expenditures of Kamehameha Day celebrations of June 11, 1941 and 1942, by the Kamehameha Day Celebration Commission in the manner and under the provisions established by section 1 of Act 227 of the Session Laws of Hawaii 1939.

Section 3. This Act shall take effect upon its approval.

(Approved April 28, 1941.) **S.B. 335, Act 118.**

[E-277] An Act Providing for Editing, Publishing and Distributing of "Final Report on Water Supply Studies, Hawaii, F. P. No. 45, Island of Molokai", and Making an Appropriation Therefor.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Hawaiian Homes Commission is hereby authorized and directed, with the appropriation made in section 2 of this Act, to edit, publish and distribute the "Final Report on Water Supply Studies, Hawaii, F. P. No. 45, Island of Molokai". Distribution shall be made to the members of the territorial legislature, to the members of the Congress of the United States, and to such officers or employees of the territorial or United States government and to such other persons as the Hawaiian Homes Commission believe are interested in the report.

Section 2. There is hereby appropriated the sum of \$1,500.00, or so much thereof as may be necessary, from the general revenues of the Territory for the purposes of this Act.

Section 3. Said funds, or so much thereof as may be neces-

sary, shall be expended upon warrants drawn by the auditor of the Territory based upon vouchers approved by the proper officers of the Hawaiian Homes Commission.

Section 4. This Act shall take effect upon its approval.

(Approved April 28, 1941.) **S.B. 244, Act 117.**

[E-278] An Act Appropriating Five Hundred Dollars (\$500.00) for Compiling, Classifying and Indexing the Session Laws of Hawaii 1941.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general fund of the territory the sum of five hundred dollars (\$500.00) for the purpose of employing a person to compile, classify and index the Session Laws of Hawaii 1941, the same to be disbursed upon vouchers approved by the secretary of the territory.

No person shall be employed for the above purpose unless he has had prior experience in such work as is contemplated by section 2 of the Revised Laws of Hawaii 1935, as amended by Act 10, Series A-3, of the Session Laws of Hawaii 1935, the provisions of which Act shall form the guide for such person as is hereunder employed.

Any officer or employee of the territory or any county or city and county, if otherwise qualified under this Act, shall be eligible to employment, and to receive compensation hereunder, in addition to his regular salary, any existing or subsequently enacted law of the territory or ordinance of any county or city and county to the contrary notwithstanding.

Section 2. This Act shall take effect upon its approval.

(Approved April 17, 1941.) **H.B. 298, Act 39.**

[E-279] An Act to Appropriate Money for Expenses of the House of Representatives of the Territory of Hawaii for the Periods Herein Specified.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the public treasury the sum of ninety thousand dollars (\$90,000.00) or so

much thereof as may be necessary for the purpose of defraying the expenses of the House of Representatives of the Twenty-First Legislature of the Territory of Hawaii for the period commencing February 19, 1941, and ending November 3, 1942.

Section 2. Should there remain any balance of the aforesaid sum of ninety thousand dollars (\$90,000.00) unexpended and not contracted for expenditure at the expiration of the aforesaid period either by said House of Representatives or any holdover committee or committees thereof duly authorized by said House of Representatives to act after the close of the regular session of 1941, such balance is hereby appropriated for the purpose of defraying the expenses of any such hold-over committee or committees.

Section 3. Each section of this Act is hereby declared to be severable from the remainder of said Act.

Section 4. This Act shall take effect upon its approval.

(Approved February 25, 1941.) **H.B. 1, Act 1.**

[E-280] An Act to Appropriate Money for the Expenses of the Senate of the Territory of Hawaii for the Periods Herein Specified.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the public treasury the sum of seventy thousand dollars (\$70,000.00), or so much thereof as may be necessary, for the purpose of defraying the expenses of the Senate of the Twenty-First Legislature of the Territory of Hawaii for the period commencing February 19, 1941, and ending November 3, 1942.

Section 2. Should there remain any balance of the aforesaid sum of seventy thousand dollars (\$70,000.00) unexpended and not contracted for expenditure at the expiration of the aforesaid period, either by said Senate or any Hold-Over Committee or Committees thereof duly authorized by said Senate to act after the close of the Regular Session of 1941, such balance is hereby appropriated for the purpose of defraying the expenses of any such Hold-Over Committee or Committees incurred prior to the convening of any session of the Twenty-Second Legislature of the Territory of Hawaii.

Section 3. Each section of this Act is hereby declared to be severable from the remainder of said Act.

Section 4. This Act shall take effect upon its approval.

(Approved February 25, 1941.) **S.B. 1, Act 2.**

PAYMENT OF CLAIMS.

[E-281] An Act to Appropriate Six Thousand Dollars (\$6,000.00) to Pay the Claims of John Makaimoku, John H. Iopa, Paul Iopa, George Iopa and Eddie Vierra, Jr., for the Wrongful Deprivation of Their Land by the Territory.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of six thousand dollars (\$6,000.00) is hereby appropriated by way of advancement out of any moneys in the treasury of the Territory of Hawaii, not otherwise appropriated, for the relief of John Makaimoku, John H. Iopa, Paul Iopa, George Iopa and Eddie Vierra, Jr., sons and heirs of Mrs. Hannah Vierra, deceased, for the wrongful deprivation by the Territory of their interests in Special Homestead Agreement No. 1901 covering House Lot No. 20, Block 802 and Homestead Lot No. 7-B situated at Waiakea, South Hilo, County of Hawaii.

Section 2. The money hereby appropriated shall be paid by the treasurer of the Territory of Hawaii upon a warrant issued by the auditor of the Territory to the said John Makaimoku, John H. Iopa, Paul Iopa, George Iopa and Eddie Vierra, Jr., upon securing from each of them a full release of all their claims against the Territory and the Waiakea Mill Company, Ltd., and upon their executing suitable instruments of conveyances conveying all their right, title and interest in the homestead lot to the Territory and the house lot to the present holder or holders of the patent thereon. Such instruments, in addition thereto, shall contain releases of dower, if such be necessary.

Section 3. The money hereby appropriated shall be deemed to be an advancement out of the general fund of the Territory of Hawaii, said fund to be reimbursed from the proceeds of sale of public lands on Hawaii.

Section 4. This Act shall take effect upon its approval.

(Approved April 4, 1941.) **S.B. 120, Act 8.**

APPROPRIATION FOR PAYMENT OF CLAIMS.

SERIES E-282.—ACT 104]

SERIES E-283.—ACT 111]

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[E-282] An Act to appropriate the Sum of Nine Thousand Three Hundred Dollars (\$9,300.00) from the General Fund to Pay the Judgments in the Cases of the Territory vs. E. Faxon Bishop, et al., Law No. 15,542, and Territory vs. Holt, et al., Law No. 15,518, Proceedings in Eminent Domain in the Circuit Court of the First Judicial Circuit in Connection With the Realignment of the Kalanianaʻole Highway and the Additions to the Territorial Fair Grounds, Respectively, Both in Honolulu, Oahu.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of nine thousand three hundred dollars (\$9,300.00), or so much thereof as may be necessary, is hereby appropriated out of the general fund of the Territory, not otherwise appropriated, to pay the judgments in the cases of the Territory vs. E. Faxon Bishop, et al., Law No. 15,542, and Territory vs. Holt, et al., Law No. 15, 518, proceedings in eminent domain in the circuit court of the first judicial circuit, in connection with the realignment of the Kalanianaʻole Highway and additions to the Territorial Fair Grounds, respectively, both in Honolulu, Oahu. The said sum shall be disbursed on warrants drawn by the auditor of the Territory based upon a voucher approved by the superintendent of public works of the Territory in the case of Law No. 15,542, and upon a voucher approved by the commissioner of public lands in the case of Law No. 15,518.

Section 2. This Act shall take effect upon its approval.

(Approved April 25, 1941.) S.B. 375, Act 104.

[E-283] An Act Appropriating the Sum of Seventy-two and 15/100 Dollars (\$72.15) for the Relief of the Heirs of Joseph Baptiste, Deceased.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general fund of the Territory of Hawaii the sum of seventy-two and 15/100 dollars (\$72.15), payable to the heirs of Joseph Baptiste, deceased, for and on account of salary and compensation due Joseph Baptiste for personal services rendered the Territory prior to his death and not yet paid.

Section 2. The money hereby appropriated shall be paid by the treasurer upon a warrant issued by the auditor of the Territory based upon a voucher approved by the superintendent of public works.

Section 3. This Act shall take effect upon its approval.

(Approved April 25, 1941.) **S.B. 322, Act 111.**

[E-284] An Act for the Relief of Kenneth McAllister.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general funds of the Territory of Hawaii the sum of seventy-five dollars (\$75.00) for the relief of Kenneth McAllister.

Section 2. The auditor of the Territory of Hawaii is hereby authorized and directed to draw a warrant in favor of said Kenneth McAllister for the amount hereby appropriated.

Section 3. This Act shall take effect upon its approval.

(Approved May 1, 1941.) **S.B. 314, Act 136.**

[E-285] An Act for the Relief of Captain J. W. Bertrand.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated for the relief of Captain J. W. Bertrand for unpaid services as a pilot for Nawiliwili, 1930-1931, the sum of six hundred dollars (\$600.00), from the general revenues of the Territory of Hawaii.

Section 2. The amount hereby appropriated shall be paid on a warrant drawn by the auditor of the Territory of Hawaii, based upon a voucher approved by the superintendent of public works, ex officio chairman of the board of harbor commissioners of said Territory.

Section 3. This Act shall take effect upon its approval.

(Approved May 2, 1941.) **S.B. 368, Act 144.**

[E-286] An Act Appropriating Funds for the Relief of Louis J. Feary for Extra Work Performed on the Territorial Hospital Contract of Walker and Olund, Limited, Being Job No. 4033.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The treasurer of the Territory of Hawaii, is hereby authorized and directed to pay, upon a warrant drawn by the territorial auditor, who is hereby authorized and directed to draw such a warrant, the sum of two thousand nine hundred thirty-seven and 44/100 dollars (\$2,937.44), to Louis J. Feary for extra work required by the Territory to be performed by him in the construction of seven ward buildings at the territorial hospital, as a sub-contractor under the contract of Walker and Olund, Limited, on Job No. 4033; and the aforesaid sum is hereby appropriated from the general fund of the Territory.

Section 2. This Act shall take effect upon its approval.

(Approved May 2, 1941.) **S.B. 17, Act 147.**

[E-287] An Act Appropriating Twenty-five Hundred Dollars (\$2500.00) to Reimburse H. H. Phillips for Labor and Materials Furnished Under a Contract With the Territory of Hawaii.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the territorial general fund the sum of twenty-five hundred dollars (\$2500.00) to reimburse H. H. Phillips, of Honolulu, Hawaii, for sums due for labor and materials under contract No. 2793, dated December 26, 1940, kitchen alterations and additions to territorial hospital, between H. H. Phillips and the Territory of Hawaii.

Section 2. The sum appropriated by this Act shall be paid by the territorial treasurer upon a warrant issued by the territorial auditor upon the issuance of a voucher to be approved by the superintendent of public works.

Section 3. This Act shall take effect upon its approval.

(Approved May 13, 1941.) **S.B. 550, Act 234.**

[E-288] An Act Appropriating \$46.50 to Reimburse the Ruddle Sales and Service Company for Services Performed for the Territorial Highway Department.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the territorial general fund the sum of forty-six and 50/100 dollars (\$46.50), to reimburse the Ruddle Sales and Service Company of Hilo, Hawaii, for services performed by it to the territorial highway department at the instance of the deputy territorial highway engineer for the County of Hawaii, the same to be paid upon vouchers approved by the territorial highway engineer, who is hereby directed to approve the same.

Provided, however, upon the payment of the sum mentioned from the territorial general fund, said fund shall be reimbursed the amount so appropriated from the fuel tax clearance fund.

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1941.) **H.B. 525, Act 286.**

[E-289] An Act for the Relief of Certain Persons, Firms and Corporations on Account of Overpayment of Taxes and Other Claims Against the Territory, and Providing Appropriations Therefor.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The following respective sums of money are hereby appropriated out of the general revenues of the Territory of Hawaii for the purpose of reimbursing the following named persons, firms and corporations, for overpayment of taxes or for taxes illegally collected, or on account of other claims against the territory, in the amounts set opposite their respective names:

Hilo Memorial Hospital	Unpaid claim, Waiakea Prison Camp	\$ 24.80
J. M. Tanaka	Unpaid claim, Kawailoa Training School	650.00
American Factors, Ltd.	Unpaid claim, Kawailoa Training School	105.68
Hilo Tribune Herald	Printing services—Session Laws 1939	298.80

Honolulu Advertiser	Printing services—Session Laws 1939	1,299.75
Shinayo Omori	Losses due to eradication of Giant African snail.....	120.00
Tokuichi Hiromoto	Losses due to spray poison damage by board of agriculture & forestry	450.00
U. S. Government, through its disbursing officer		
	Loss of federal property.....	114.90
Pioneer Mill Co.	Improvements to land.....	1,261.89
Molokai Company, Ltd.	Furnishing gas and oil.....	61.44
New Makiki Hotel	Unemployment relief and welfare taxes	107.86
Wong Kam Hoy, et al.	Real property taxes.....	36.91
Shosaku Nakamoto	Personal property taxes.....	30.27
Yoshikara Shito	Poll tax	5.00
Jitsuo Matsui	Poll tax	6.82
Segundo Ayonayon	Poll tax	7.41
Minetaro Nashiwa	Income tax	113.83
Rose Kong	Real property tax.....	128.87
S. K. Kamaiopili	Real property tax.....	28.06
William Velles	Poll tax	10.00
Estate of Jane K. Brede, deceased	Inheritance tax	50.44
Garden Island Publishing Co., Ltd.	Printing services—attorney general's department	26.25
Honolulu Office Equipment Co., Ltd.	Unpaid claim—Employees' Retirement System	115.46
Fisher Corporation, Ltd.	Unpaid claim—Employees' Retirement System	11.48
Advertiser Publishing Co., Ltd.	Unpaid claim—Employees' Retirement System	180.51
Hawaiian Printing Co., Ltd.	Unpaid claim—Employees' Retirement System	76.00
Charles H. Merriam	Poll tax	15.00
Charlotte Hall	Poll tax	15.00
Kihichiro Hirata	Poll tax	5.00
Helen F. Woodall	Poll tax	5.00
Desiderio Arzaga	Poll tax	7.37
James J. Crockett	Poll tax	20.00
Alice M. Robley Estate by Cooke Trust Co., Ltd., Exec.	Real property taxes.....	243.29
Estrella Calhau	Real property taxes.....	64.78

Bertha R. Young	Real property taxes.....	29.24
Ivan Koyusheff & wf.		
Mary	Real property taxes.....	4.26
Estate of Sara Cheong, dec'd. (Probate #11,- 635) by Willson C. Moore, Attorney for Emmeline Richardson, Administratrix	Real property taxes.....	20.95
Josephine M. Hoapili	Real property taxes.....	58.58
Henry H. Williams	Real property taxes.....	230.35
Akira Kutsumai	Real property taxes.....	152.37
Mrs. Lokalia Frieden- burg estate	Real property taxes.....	119.27
Francis R. Foster	Poll taxes	5.00
Mrs. Julia Halemano	Poll taxes	20.00
John Kawaa, Jr.	Poll taxes	10.00
Luke Kong	Poll taxes	15.40
Mrs. Yee Kui	Poll taxes	5.00
Peter Lyum	Poll taxes	6.89
Edward F. Miranda	Poll taxes	10.00
Joao A. Nobrega	Poll taxes	25.00
Mrs. Kam Sing Wong	Poll taxes	5.00
La Vern A. Magee	Income taxes	.95
Irving G. Pulis	Income taxes	3.94
Chung Yee, also known as Chong Gee	Poll taxes	10.00
Shinyei Ajifu	Poll taxes	5.00
Dung Yick	Poll taxes	5.00
Mrs. F. Rafanan, alias Cristita Libres	Poll taxes	5.00
Umeno Miyata	Poll taxes	5.00
Cressie Borge	Poll taxes	5.00
Mary Bumanglag	Poll taxes	5.00
Ah Ling Cup Choy	Poll taxes	5.00
Violet Cup Choy	Poll taxes	5.00
Mrs. Justina Costa	Poll taxes	5.00
Manuel de Ponte Enos	Poll taxes	5.00
Harry Fernandez	Poll taxes	5.00
Emily Santos	Poll taxes	5.00
Seitoku Tamanaha	Poll taxes	10.00
Jacob Mau	Poll taxes	5.00
Teruo Watanabe	Poll taxes	5.00
Philip B. Peck	Reimbursement for amounts paid federal government on property shortages—National Guard	30.14

Julia Malaki	Poll taxes	5.00
Annie L. Rocha	Poll taxes	5.00
Mrs. Nani Mahoney		
Osorno	Poll taxes	10.00
Mary Akima	Real property taxes.....	21.93
Estate of Louisa H.		
Rickard, Dec'd	Real property taxes.....	456.96
Mrs. Kapua V. Carter	Real property taxes.....	5.74
Shell Oil Co., Inc.—		
Hilo	Real property taxes.....	408.16
St. Francis Hospital	Unpaid claim—Board of Hos- pitals and Settlement.....	50.50
Ernest Y. Ishisaka	Poll tax	10.00
Dolres Clark	Refund portion registration fee board of hairdressers, cos- meticians and cosmetologists	165.00
Louis A. Marciel	Error in payment of salary....	470.46
(This item is not approved. J. B. P.)		
Queen's Hospital	Services rendered in Oahu Prison	11.00
Kame Matsumura	Refund of poll taxes.....	10.00
Yoshiyuki Suenishi	Refund of poll taxes.....	10.00
Mary Johnson	Refund of property taxes.....	91.98
(This item is not approved. J. B. P.)		
Schuman Carriage Co.	Damage to automobile.....	35.55
Standard Oil Co. of Calif.	Fuel tax refund.....	175.52
(This item is not approved. J. B. P.)		
George Correa	Pay as inspector of elections...	60.00
Robert K. Kawelo	Pay as inspector of elections...	60.00
Raymond Fern	Pay as chairman of elections..	75.00
Joe Yamamoto	Pay as inspector of elections....	20.00
Zachary Keaunui	Pay as inspector of elections....	20.00
Albert P. Trask	Pay as clerk of elections.....	15.00
George M. Moriwaki	Pay as clerk of elections.....	15.00
T. C. Look	Cost of repairs to automobile...	25.00
Edward H. Peck	Cost of repairs to automobile..	94.01
(This item is not approved. J. B. P.)		
Horace M. Kawamura	Automatic salary increases....	44.70
Shintaro Namihara	Automatic salary increases....	26.64
William H. Balthis	Services, board of review.....	70.00
Charles M. Peters	Services, board of review.....	70.00
Frank F. Caires	Services, board of review.....	70.00
Robert Hing Chong	Refund of poll taxes.....	7.19
(This item is not approved. J. B. P.)		
James T. M. Chang	Loss of field glasses.....	39.00

(This item is not approved. J. B. P.)		
Loreen Winter	Loss of salary as school teacher	369.60
Dolres Clark	Overpayment in registration fee	166.66
(This item is not approved. J. B. P.)		
Christopher J. Hamre	Repairs to automobile.....	28.05
(This item is not approved. J. B. P.)		
Blaisdell Hotel	Diesel oil refund.....	15.93
Haleiwa Corp., Ltd.	Diesel oil refund.....	54.93
Waianae Company, Ltd.	Diesel oil refund.....	157.92
E. C. Adams	Diesel oil refund.....	1.20
Hilo Electric Light Co.	Diesel oil refund.....	175.52
F. M. Brooks	Refund of consumption taxes..	15.01
(This item is not approved. J. B. P.)		
N. Hakoda	Real property taxes.....	41.70
(This item is not approved. J. B. P.)		
Kunigoro Yokoyama	Real property taxes.....	196.16
(This item is not approved. J. B. P.)		

Section 2. The sums hereinabove appropriated shall be paid upon warrants issued by the territorial auditor upon vouchers approved by the tax commissioner in the several amounts and to the respective persons hereinabove set out, as to said claims for taxes, and shall be paid upon warrants issued by said auditor upon vouchers approved by the director of the bureau of the budget as to all other claims.

Section 3. Any amounts so paid which shall represent property taxes overpaid or illegally collected shall constitute an advancement to the county in which such taxes have been collected, and shall be repaid by the treasurer of the territory into the general fund of the territory by retaining the amount from the next collection of such taxes on account of such county and paying the same into said general fund.

Section 4. This Act shall take effect upon its approval.

(Approved this 23d day of May, A. D. 1941, except as to items followed by the words "This item is not approved.") **H.B. 228, Act 334.**

MISCELLANEOUS, TERRITORIAL

Rep., Sr. E 84
P. Sp.S./41

[E-290] An Act to Authorize the Hawaiian Homes Commission to Contract With the Molokai Water Commission for the Furnishing of Water for Hawaiian Homes Commission Lessees and to Guarantee to the Molokai Water Commission an Annual Gross Income of \$150,000 for a Period of Ten Years, and Making an Appropriation Therefor.

Sec. E 82-83-131
Ann., Sr.
P. Sp.S./41

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Hawaiian Homes Commission is hereby authorized to contract with the Molokai Water Commission to furnish water for the lessees of the Hawaiian Homes Commission, and under said contract to guarantee to the Molokai Water Commission an annual gross income of \$150,000 for a period of ten years. Provided that said contract shall expressly stipulate and guarantee that the lessees of the Hawaiian Homes Commission shall have a right to have their water needs satisfied before any water shall become available for sale to any other members of the public, and that in the event that there is no surplus water over the needs of said lessees, then said lessees shall be entitled to have the whole thereof.

Section 2. There is hereby appropriated the sum of \$1,500,000, out of the general revenues of the Territory of Hawaii, to be available for expenditure by, and which may be expended upon vouchers issued by the Hawaiian Homes Commission, in amounts not in excess of \$150,000 per annum, for a period of ten years, in payment of any guarantee executed as provided in section 1 hereof.

Section 3. At the end of each year in which any guarantee executed under section 1 hereof may be operative, such portion, if any, of the \$150,000 hereinabove appropriated to meet said guarantee for such year, as shall not be needed to discharge said guarantee for such year, shall be lapsed in the general fund of the Territory of Hawaii.

Section 4. This Act shall become effective upon the enactment into law of House Resolution 3260 of the 77th Congress (1st Session) of the United States of America, or of like legislation, and the ratification by Congress of this Act.

(Approved May 10, 1941.) **S.B. 22, Act 201.**

[E-291] An Act Authorizing the Board of Harbor Commissioners to Accept Up to the Sum of Thirty-five Thousand Dollars (\$35,000.00) from the Inter-Island Steam Navigation Company, Limited, for Rehabilitation, Reconstruction and Repairs to Pier 12 and Payment of Damages Arising Out of Cancellation of a License on Piers 13 and 14, and Providing for Reimbursement of Inter-Island Steam Navigation Company, Limited, for Said Sum Out of Certain Harbor Board Revenues.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of harbor commissioners is hereby empowered and authorized to accept a sum up to and including thirty-five thousand dollars (\$35,000.00) from the Inter-Island Steam Navigation Company, Limited, an Hawaiian corporation, and to enter into an agreement or undertaking with said corporation for the repayment of said amount of money; provided, however, that no interest shall be charged the board of harbor commissioners on account of the payment of said amount of money to the said board and provided, further, that repayment shall be made out of harbor board revenues received from piers 7, 12 and 13/14 in the manner and as hereinafter set forth.

Section 2. The amount of any advance so accepted from said Inter-Island Steam Navigation Company, Limited, shall be deposited in a special fund in the treasury of the territory and shall be expendable, upon warrants disbursed by the auditor based upon vouchers approved by the chairman, or acting chairman, of the board of harbor commissioners, for the purpose of rehabilitating, reconstructing, repairing or improving pier 12 at Honolulu harbor, Oahu, and for the purpose of paying the Union Oil Company of California damages in the amount of one thousand seven hundred forty-one and 46/100 dollars (\$1,741.46) arising out of the cancellation of a license held by said oil company for the construction and operation of a service station at pier 13/14 at Honolulu harbor, Oahu. Moneys in said special fund are hereby deemed appropriated for the above purposes. Any moneys remaining unexpended in said special fund after the completion of the above project and payment of the above damages shall be returned and paid back to the Inter-Island Steam Navigation Company, Limited.

Section 3. All moneys representing charges on account of wharfage, tolls, storage, rents and other harbor board charges

arising out of the use of piers 7 and 12 by the Inter-Island Steam Navigation Company, Limited, shall, after the date of the approval of this Act, be retained by said corporation to be applied, by way of reimbursement, against the amount advanced to and expended by the board out of the special fund for the rehabilitation, reconstruction, repairs and improvement of pier 12, and all moneys arising out of like charges for the use of pier 13/14 by said corporation shall be retained by said corporation until the sum of one thousand seven hundred forty-one and 46/100 dollars (\$1,741.46) is repaid.

Section 4. The board of harbor commissioners shall monthly furnish the Inter-Island Steam Navigation Company, Limited, with a certified statement of the charges accruing to the board by virtue of the use by said corporation of piers 7, 12 and 13/14. Upon the repayment of the amount advanced, or that portion thereof actually expended for the above purposes, the agreement or undertaking herein authorized to be entered into by and between the Inter-Island Steam Navigation Company, Limited, and the board of harbor commissioners shall terminate and all charges on account of wharfage, tolls, storage, rents and other harbor board charges shall thereafter be payable to the board pursuant to law.

Section 5. This Act shall take effect upon its approval.

(Approved May 9, 1941.) **H.B. 528, Act 194.**

[E-292] An Act Authorizing the Board of Regents of the University of Hawaii to Remove, Delete and Write Off Certain Delinquent and Uncollectible Accounts Receivable Totaling \$324.39.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of regents of the University of Hawaii is authorized, subject to the approval of the auditor, to remove, delete and write off from its appropriate account and records the following outstanding loans made to scholars of the former Territorial Normal and Training School from the revolving fund provided for in Act 215 of the Session Laws of Hawaii 1929, to wit:

Margaret Rapoza Bronson	\$150.00
Ida M. Correa Cunningham.....	114.39
Violet Helekunihi	60.00

Total	\$324.39
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Upon the certification of the attorney general that each of the loans herein mentioned are uncollectible, the auditor shall delete and write off such account on the books of the territory. The accounts when removed, deleted and written off shall not be listed as assets of the University of Hawaii or the territory in any report or reports concerning the fiscal affairs of the University of Hawaii or the territory.

Section 2. This Act shall take effect upon its approval.

(Approved May 6, 1941.) **H.B. 262, Act 161.**

[E-293] An Act to Extend for the Year 1941 the Time for the Submission of Budgets for Taxation Purposes and Performance of Acts Dependent Thereon as Required by Section 1921 of the Revised Laws of Hawaii 1935, as Amended.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The time for the submission of budgets for taxation purposes as required by section 1921 of the Revised Laws of Hawaii 1935, as amended, is hereby extended for the year 1941 from March 31st to May 15th, and any county budget submitted before May 15, 1941, may be amended on or before said date in the manner provided by said section. Any Act required by said section 1921, as amended by any other Act (including any other Act enacted at the present session of the legislature, whether enacted before or after this Act becomes law), to be performed on or before any specified date prior to June 20, 1941, by any officer or other person specified in said section 1921 as so amended, shall be valid if performed after the date so specified in said section 1921, but before June 20, 1941, any other provisions to the contrary in said section 1921 as so amended, or any other law to the contrary, notwithstanding.

Section 2. This Act shall take effect upon its approval.

(Approved March 31, 1941.) **S.B. 170, Act 7.**

[E-294] An Act to Extend for the Year 1941 the Time for the Submission of the Statements and Determination of the Personal Property Tax Rate as Required by Section 2102, Revised Laws of Hawaii 1935, as Amended.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The time for the submission by the several counties of the statements required by section 2102, Revised Laws of Hawaii 1935, as amended, is hereby extended for the year 1941 from March 31 to May 15, 1941, and any such statement submitted before May 15, 1941, may be amended on or before said date. Any act required by said section 2102, as amended by any other Act (including any other Act enacted at the present session of the legislature, or any extension thereof, whether enacted before or after this Act becomes law), to be performed on or before any specified date prior to June 20, 1941, by any officer or other person specified in said section 2102, as so amended, shall be valid if performed after such specified date but before June 20, 1941, any other provisions in said section 2102, as so amended, or in any other law to the contrary notwithstanding.

Section 2. This Act shall take effect upon its approval.

(Approved April 24, 1941.) **S.B. 427, Act 98.**

[E-295] An Act to Provide for the Destruction of Certain Territorial Warrants and Interest Coupons Which Have Been Paid and Which Bear Date Prior to January 1, 1931.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The treasurer, auditor and the attorney general of the Territory of Hawaii are hereby directed, authorized and empowered to supervise and conduct the burning and destruction of all warrants of the Territory of Hawaii which have been paid and which bear any date prior to January 1, 1931, and all territorial bond interest coupons which have been paid and which bear any date prior to January 1, 1931.

Section 2. Before the burning and destruction of such warrants and interest coupons the auditor of the Territory shall

conduct such examination and investigation to determine that the warrants and interest coupons to be burned and destroyed bear any date prior to January 1, 1931.

Section 3. This Act shall take effect upon its approval.

(Approved April 23, 1941.) **S.B. 445, Act 90.**

E203
66

[E-296] An Act to Provide for a Temporary Waiver Under Certain Circumstances of the Requirement of Compulsory Retirement at Age Seventy of Members of the Employees' Retirement System of the Territory of Hawaii.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The provisions of chapter 260 of the Revised Laws of Hawaii 1935, as amended, and particularly subsection 1-(b) of section 7925 of said Revised Laws, which provide for compulsory retirement of members of the Employees' Retirement System of the Territory of Hawaii upon their attaining the age of seventy years, are hereby temporarily waived with respect to any person attaining the age of seventy years in the service of the Territory or any county as to whom the head of his department (or, if he is the head of such department, he himself) shall recommend with the approval of the governor (in the case of a territorial employee) or of the chairman of the board of supervisors of the county (in the case of a county employee) that he be retained in service. In such event, such employee may continue in service and as a member of said system until otherwise provided by the legislature of the Territory, but not later than June 30, 1943.

Section 2. This Act shall take effect upon its approval.

(Approved April 26, 1941.) **S.B. 338, Act 113.**

[E-297] An Act to Provide for the Allowance of Additional Creditable Service in the Employees' Retirement System of the Territory of Hawaii to Albert G. Paschoal.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The trustees of the Employees' Retirement System of the Territory of Hawaii are hereby authorized and

directed to allow, to Albert G. Paschoal, "creditable service" for all services performed by him in the employ of the County of Maui or of the territory prior to the date upon which he became a member of said system. Any contributions to said system necessary to be made in order to carry out the requirements of this Act, shall be paid,

(a) as to contributions to the pension accumulation fund, by the County of Maui; and

(b) as to contributions to the annuity savings fund, by said Albert G. Paschoal.

Section 2. This Act shall take effect upon its approval.

(Became effective April 14, 1941, without the Governor's signature.)

H.B. 132, Act 20.

[E-298] An Act Providing for the Withdrawal of Albert Ontai as a Member of the Employees' Retirement System of the Territory of Hawaii and for His Reinstatement as a Member of the Pension Fund for Policemen, Firemen and Bandsmen of the County of Maui.

Whereas, Albert Ontai, Active Service No. M-3178 in the Employees' Retirement System of the Territory of Hawaii, was prior to the enactment of Act 251, Session Laws of 1927, a member of the pension fund for policemen, firemen and bandsmen for the County of Maui; and

Whereas, after the passage of said Act 251 the said Albert Ontai applied, by reason of a misunderstanding, to the trustees of said Retirement System for membership therein, thereby terminating his rights in said pension fund, now, therefore,

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The trustees of the Employees' Retirement System of the Territory of Hawaii are hereby authorized and directed to permit the withdrawal of the said Albert Ontai from membership in said Retirement System, and to return to him the amount of his accumulated contributions to said Retirement System and he is hereby reinstated as a member of said pension fund for policemen, firemen and bandsmen for the County of Maui and shall be entitled to the same benefits in said fund and under the provisions of Part 3 of Chapter 259

of the Revised Laws of Hawaii 1935, as amended, as if he had never become a member of said Retirement System.

Section 2. This Act shall take effect from and after the date of its approval.

(Became effective April 14, 1941, without the Governor's signature.)

H.B. 178, Act 21.

**PART 2. SPECIAL AS TO LOCALE.
CITY AND COUNTY OF HONOLULU.**

[E-299] An Act Relating to the Construction of a Sanitary Sewer System in the City and County of Honolulu and Amending Act 210 of the Session Laws of Hawaii 1937, as Amended by Act 180 of the Session Laws of Hawaii 1939.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 2 of Act 210 of the Session Laws of Hawaii 1937, as amended by Act 180 of the Session Laws of Hawaii 1939, is hereby further amended to read as follows:

"Section 2. The moneys realized from such bond issue shall be expended for the construction of main interceptors, sewer pumping stations, trunk lines of diameter of 8 inches or over and the city and county's share of the expenses for the construction and extension of laterals under improvement district assessments for such laterals for a sanitary sewer system within the city of Honolulu, except, however, the city and county of Honolulu is authorized to expend the usual pro rata cost paid by the government under sewer improvement assessments in the development of a sewer system for lands under control of the Hawaiian homes commission in Auwailimu, Kewalo and Kalawahine, and, further, to expend such moneys to meet the city and county's share of the cost of sewer extensions made under the provisions of ordinances of the city and county of Honolulu, provided such share shall not exceed one-third of the cost of such extensions, without going through the process necessary to establish a sewer improvement district."

Section 2. This Act shall take effect upon its approval.

(Approved May 19, 1941.) **S.B. 410, Act 301.**

[E-300] An Act to Amend Act 247 of the Session Laws of Hawaii 1937, Relating to Public Improvements, by Amending Item 15 of Section 2 Thereof, Relating to Parks.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Item 15 of section 2 of Act 247 of the Session Laws of Hawaii 1937, is hereby amended to read as follows:

“15. Parks, acquisition of lands, improvements, development and equipment (divided as follows: Parks, Kuhio and Kapiolani Parks, Waikiki, \$120,000.00; construction and equipment of comfort station, Ala Moana Yacht Basin, \$5,000.00; Park, Kaimuki, \$75,000.00) . . \$200,000.00.”

Section 2. The sub-item in item 15 for the comfort station at Ala Moana Yacht Basin shall have priority in said item 15 of allotment and expenditure, subsequent to the effective date of this Act.

Section 3. This Act shall take effect upon its approval.

(Approved May 21, 1941.) **S.B. 358, Act 321.**

[E-301] An Act to Amend Act 31 of the Session Laws of Hawaii 1937, Relating to Improvement Bond Commitments.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 31 of the Session Laws of Hawaii 1937, is hereby amended, by amending section 4 thereof by substituting for the date “1941”, in the third line and in the last proviso of said section, the date “1940”.

Section 2. Act 31 of the Session Laws of Hawaii 1937, is hereby further amended, by amending section 5 thereof by substituting for the date “1942”, in the third line of the first paragraph thereof, the date “1941”, and by substituting for the word “auditor”, in the third line of the second paragraph of said section, the word “controller”.

Section 3. Act 31 of the Session Laws of Hawaii 1937, is hereby further amended, by amending section 10 thereof by

deleting from the second sentence thereof the words "or by reason of the foreclosure of assessment liens on or the sale of properties not theretofore foreclosed upon or sold".

Section 4. This Act shall take effect upon its approval.

(Approved May 13, 1941.) **S.B. 134, Act 226.**

[E-302] An Act to Authorize the Board of Supervisors of the City and County of Honolulu to Realign and Reconstruct Pauoa Street from Nuuanu Avenue to Kanealii Street, and Also to Complete the Construction of a Portion of Dole Street Extension, Without Complying With the Provisions of Chapter 92, Revised Laws of Hawaii 1935, as Amended.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the City and County of Honolulu is hereby authorized to realign and reconstruct Pauoa Street from Nuuanu Avenue to Kanealii Street for a distance of approximately 1500 feet, in accordance with plans on file in the office of the chief engineer, without complying with the provisions of chapter 92, Revised Laws of Hawaii 1935, as amended, provided that the cost of such work shall not exceed the sum of \$55,000.

Section 2. The board of supervisors of the City and County of Honolulu is hereby authorized to complete the construction of the Dole Street Extension for a distance of approximately 1900 feet Waikiki of University Avenue, in accordance with plans on file in the office of the chief engineer, without complying with the provisions of chapter 92, Revised Laws of Hawaii 1935, as amended, provided that the cost of such work shall not exceed the sum of \$15,000.00.

Section 3. This Act shall take effect upon its approval.

(Approved May 9, 1941.) **H.B. 558, Act 187.**

[E-303] An Act Authorizing and Directing the Mayor and the Board of Supervisors of the City and County of Honolulu to Appropriate Funds for Equipment and Furnishings for the Judiciary Building Addition.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The mayor and the board of supervisors of the city and county of Honolulu are hereby authorized and directed to appropriate out of the general funds of the city and county of Honolulu the sum of \$7,000.00 for the purchase of equipment and furnishings for the judiciary building addition.

Section 2. This Act shall take effect upon its approval.

(Approved May 20, 1941.) **S.B. 491, Act 312.**

[E-304] An Act Amending Act 202, Session Laws of Hawaii 1939, Relating to an Appropriation for the Construction of a Club House at the Ala Wai Golf Course, and Providing for Its Repayment.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 202, Session Laws of Hawaii 1939, is hereby amended by substituting "twenty-five thousand dollars (\$25,000.00)" for "fifteen thousand dollars (\$15,000.00)" in the first line of section 1 thereof.

Section 2. Act 202, Session Laws of Hawaii 1939, is hereby further amended by deleting therefrom all of section 3.

Section 3. Act 202, Session Laws of Hawaii 1939, is hereby further amended by changing the designation "Section 4" to "Section 3" and by substituting "ten years" for "six years" in the third and fourth lines thereof.

Section 4. This Act shall take effect upon its approval.

(Approved May 8, 1941.) **S.B. 78, Act 174.**

[E-305] An Act Appropriating the Sum of Thirty-three Thousand Dollars (\$33,000.00), for the Acquisition of Certain Lands, Including Damages Arising Therefrom, Situate at Waialua, Oahu, Necessary for the Construction of a Public Road.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of thirty-three thousand dollars (\$33,000.00), or so much thereof as is necessary, is hereby appropriated out of the general fund of the Territory of Hawaii, not otherwise appropriated, for the acquisition of certain lands, including damages arising therefrom, situate at Waialua, Oahu, and more particularly designated as parcels 1, 2, 3, 7 (revised) and 8 (revised) in that certain proceeding entitled Territory of Hawaii, by D. F. Balch, its Superintendent of Public Works vs. Waialua Agricultural Company, Limited, et al., docketed Law No. 15680 in the circuit court, first judicial circuit, Territory of Hawaii.

Section 2. Said amount shall be expendable by the superintendent of public works and shall be disbursed upon warrants issued by the auditor based upon vouchers approved by the superintendent of public works.

Section 3. This Act shall take effect upon its approval.

(Approved April 29, 1941.) **S.B. 413, Act 130.**

[E-306] An Act Appropriating Funds for New Buildings and Equipment at Waialeale School, Island of Oahu.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated out of the general revenues of the territory the sum of thirty thousand dollars (\$30,000.00), or so much thereof as shall be necessary, for the construction of new buildings and for equipment therefor, at Waialeale School, being the Boys' Industrial School on the Island of Oahu, to be expended upon vouchers approved by the director of institutions.

Section 2. The labor necessary for the construction of the new buildings provided for in this appropriation may be performed by the inmates of any of the institutions referred to in chapter 254 of the Session Laws of Hawaii 1939 as amended.

Section 3. This Act shall take effect upon its approval.

(Approved April 21, 1941.) **H.B. 338, Act 69.**

[E-307] An Act Appropriating the Sum of Three Thousand Eight Hundred Dollars and Forty-six Cents (\$3,800.46) to Reimburse the City and County of Honolulu for the Cost of Paving Certain Portions of Streets and the Construction of Sewers in Frontage Improvement Districts Nos. 64 and 66 and Improvement District Nos. 40, 41 and 44.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of three thousand eight hundred dollars and forty-six cents (\$3,800.46) is hereby appropriated out of the general fund of the Territory of Hawaii for the purpose of reimbursing the city and county of Honolulu for the payments made by it on assessments for street improvements on streets in Frontage Improvement Districts Nos. 64 and 66 and assessments for sewer improvements in Improvement Districts Nos. 40, 41 and 44, such payments having been made under Section 3183, Revised Laws of Hawaii 1935.

Section 2. The said sum of three thousand eight hundred dollars and forty-six cents (\$3,800.46) shall be paid to the treasurer of the city and county of Honolulu by warrants drawn by the auditor of the Territory of Hawaii.

Section 3. This Act shall take effect upon its approval.

(Approved May 16, 1941.) **S.B. 518, Act 270.**

[E-308] An Act for the Relief of Paulino Deliso.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the city and county of Honolulu is hereby authorized and directed to appropriate the sum of \$56.25 from the general fund of the city and county of Honolulu for the relief of Paulino Deliso.

Section 2. The money directed to be appropriated by section 1 hereof, when appropriated, shall be paid by the treasurer of the city and county of Honolulu upon a warrant drawn by the auditor of the city and county of Honolulu without written requirement of the approval of the claim by the controller.

Section 3. This Act shall take effect upon its approval.

(Approved May 10, 1941.) **S.B. 207, Act 204.**

[E-309] An Act for the Relief of Maria and Reymunda Natividad.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the city and county of Honolulu is hereby authorized and directed to appropriate and pay to Maria and Reymunda Natividad the sum of ninety-nine dollars and fourteen cents (\$99.14) heretofore escheated from the small estate of Juan Natividad, deceased.

Section 2. This Act shall take effect upon its approval.

(Approved May 9, 1941.) **S.B. 451, Act 191.**

[E-310] An Act for the Relief of Jack Heleluhe.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the City and County of Honolulu is hereby authorized and directed to appropriate and cause to be paid to Jack Heleluhe, a member of the Royal Hawaiian Band, out of the general fund of said city and county, the sum of one hundred and fifty dollars (\$150.00), being salary for the month of February, 1940, of which he was deprived due to illness.

Section 2. This Act shall take effect upon its approval.

(Approved May 7, 1941.) **H.B. 502, Act 170.**

[E-311] An Act Directing the Pension Board of the City and County of Honolulu Created Under the Provisions of Act 112 (Series D-177) of the Session Laws of Hawaii 1939, to Reinvestigate the Pension Previously Provided for David Haili, and to Increase the Same.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of the City and County of Honolulu created under the terms of Act 112 (Series D-177) of the Session Laws of Hawaii 1939, is hereby authorized and directed to reinvestigate and reconsider the pension heretofore provided for David Haili and to increase the amount thereof; and in arriving at such increased amount, said board shall take into consideration all the facts and circumstances surrounding the injuries received by the said David Haili resulting in his

permanent disability, and shall not be limited by the provisions of said Act 112.

Section 2. This Act shall take effect upon its approval.

(Approved May 7, 1941.) **H.B. 556, Act 171.**

HAWAII.

[E-312] An Act Confirming the Membership of J. B. Medeiros in the County of Hawaii Pension Fund for Policemen, Firemen and Bandsmen, and Providing for the Allowance to Him of Full Service Credit for Previous Service as a Bandsman or Policeman, or Both.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The membership of J. B. Medeiros in the pension fund for policemen, firemen and bandsmen of the County of Hawaii provided for by Part 3 of Chapter 259 of the Revised Laws of Hawaii 1935, as amended, is hereby ratified and confirmed, and the trustees of said pension fund are hereby authorized and directed to allow to said J. B. Medeiros as such member of said fund credit for all service heretofore or hereafter rendered by him, whether as a bandsman or as a policeman, or both, in the service of said county.

Section 2. This Act shall take effect upon its approval.

(Approved May 6, 1941.) **H.B. 536, Act 166.**

[E-313] An Act to Amend Act 232, Series E-240 of the Session Laws of Hawaii 1939, Authorizing the County of Hawaii to Issue Bonds for Certain Public Improvements and Authorizing Advances From, and Reimbursement to, the General Fund of the County of Hawaii for Such Improvements.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1 of Act 232, Series E-240 of the Session Laws of Hawaii 1939, is hereby amended to read as follows:

“Section 1. The County of Hawaii is hereby authorized and empowered to issue, pursuant to and in accordance with chapter 267 of the Revised Laws of Hawaii 1935, bonds in the sum of five hundred eighty thousand dollars (\$580,000.00); said

bonds to be serial bonds maturing in substantially equal annual installments, the first installment to mature in five years from the date of issue of such series, and the last installment not later than thirty years from such date of issue."

Section 2. Section 2 of Act 232, Series E-240 of the Session Laws of Hawaii 1939, is hereby amended to read as follows:

"Section 2. The moneys realized from the bond issue shall be expended for the following specific purposes in said County of Hawaii:

Puumaile Home. Completion of present home. Utilizing so far as is consistent with reasonable safety, the materials and equipment from the old Puumaile Home.....	\$100,000.00
Flood Control. Flood control system in Waiakea Homestead areas and Waiakea house lots, second series (Kapiolani Tract).....	215,000.00
Hilo Memorial Hospital. New wing and equipment	125,000.00
Flood Control. City of Hilo.....	30,000.00
Honokaa-Ahualoa Water Works — Extension and Improvements and Hamakua Waterworks	30,000.00
Acquiring of land, new buildings, improvements and equipment, Kohala High and Grammar School	80,000.00"

Section 3. The County of Hawaii may advance moneys from its general funds for such improvements prior to the sale of the bonds herein provided for and upon such sale reimburse such general fund for the advances so made.

Section 4. In case the amount specified in any item in section 2 shall not be wholly required to complete the work on such item, the unrequired balance may, after completion of said item, be expended for the work specified in any of the other items.

Section 5. This Act shall take effect upon its approval.

(Approved May 1, 1941.) **H.B. 26, Act 139.**

[E-314] An Act Making Appropriations by Way of Advancement from the General Fund of the Territory to be Repaid Out of the Proceeds of Sale of Public Lands in the County of Hawaii for the Construction of Certain Homestead Roads, and Other Various Roads and Street Improvements in the County of Hawaii.

Be It Enacted by the Legislature of the Territory of Hawaii: E 219
150

Section 1. The sum of one hundred fifty-five thousand nine hundred and twenty-five dollars (\$155,925.00), or so much thereof as may be necessary, is hereby appropriated by way of advancement out of the general fund of the Territory of Hawaii, not otherwise appropriated, for the construction of certain homestead roads, and other various roads and street improvements in the County of Hawaii:

1. Keokea Loop Road running northward from Kalaniana'ole Street.....\$ 500.00
2. (a) A 40-foot road running between Lots 86 and 87, Lehia Park residence lots in a northeasterly direction for a distance of approximately 200 feet from Kalaniana'ole Street to the south boundary of Lelewi Beach Park (Executive Order 267) 1,650.00
- (b) A road bounded on the west by Lots 17 and 98 and on the east by Lots 18 and 99 of the Lehia Park residence lots, for a width of 40 feet and extending in a southwesterly direction from Kalaniana'ole Street for a distance of approximately 390 feet..... 1,500.00
3. Extension of the Haunani Road, Olaa Summer Lots, through Grants 10069 and 5418, a distance of about 3000 feet..... 3,350.00
Vetoed J. B. P.
4. The portion of Waianuenue Street lying on the south side of Pi'honua House Lots, 2nd Series, and running from Kamaile Street in a southwesterly direction for a distance of 2200 feet, more or less..... 15,000.00
5. Construction of Pomoho, Uluhe and Wilder Roads, or any of them..... 675.00
Vetoed J. B. P.
6. (a) Construction of sidewalk and widening of street along Manono Street between Waiakea Village and Piilani Street..... 20,000.00

- (b) Construction of connecting road from corner of Piilani Road and Kanoielehua Road to Kalanianaʻole Street leading to the wharf.... 25,000.00
7. Construction of road between Lots 11 and 12, Waiakea Warehouse Lots..... 450.00
8. Construction of asphalt paved road in Waimea House Lots, South Kohala, beginning at intersection of Opelo Road and running as far as said appropriation permits along Lot 1 of Block 7, Lots 1, 2, 3 and 4 of Block 11, and Lots 1, 3, 4 and 5 of Block 10, of said Waimea House Lots toward the intersection of Kawaihae Road 1,800.00
9. Extension of Mohouli Street through Waiakea Cane Lots, Waiakea, South Hilo, as shown on Tax Map 2-4-01..... 10,000.00
10. Kaieie Homestead Road (S. Hilo) beginning at Lot 24 and running through Lots 28 and 29.. 2,000.00
11. Waiakea Homestead Extension Road (S. Hilo) Continuation of Camp 8 Road running mauka past Lot 1-C..... 1,000.00
12. Waiakea Homestead Road (S. Hilo) from corner Lot 1107 towards Lot 1114..... 4,000.00
13. Papaaloa Homestead Roads (N. Hilo) Kapehu Road from Lot 29 to Lot 28..... 1,500.00
Vetoed J. B. P.
14. Paauiilo Homestead 2nd Series and Pohakea Homestead Road (Hamakua) from makai side of Lot 17B Paauiilo Homestead 2nd Series to Lot 36 Pohakea Homestead..... 5,000.00
15. Kaapahu Homestead Road (Hamakua) from Lot 1 towards crossroad at Lot 10..... 3,500.00
16. Ahualoa Homestead Roads (Hamakua) from end of Paved Road on the west side of Ahualoa School towards and along the Parker Ranch boundary 4,500.00
Vetoed J. B. P.
17. Olaa New Tract Lots (Puna) from Lot 8 Grant 5967 Olaa New Tract Lots towards Lot 28 Grant 10866 4,000.00
Vetoed J. B. P.
18. Olaa Homestead Reservation Lots (Puna) from Special Sales agreement 1836 Lot 87H towards Grant 6832..... 3,000.00
Vetoed J. B. P.

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19. Kaauhuhu Homestead Roads (N. Kohala) towards Kennersly Road..... 28,000.00
Vetoed J. B. P.
20. North Kohala-Hawi Road from main government road towards ocean..... 10,500.00
Vetoed J. B. P.
21. Wood Valley Homestead Roads (Kau) east corner Lot 4A towards Lot 1..... 4,000 00
Vetoed J. B. P.
22. Continuation of west road towards Lot 23..... 5,000.00
Vetoed J. B. P.

Section 2. The said appropriations shall be disbursed on warrants of the territorial auditor based upon vouchers approved by the commissioner of public lands, who shall construct said projects by contract with or through the County of Hawaii, provided that any of said projects which cost \$10,000.00 or more shall be constructed by contract with a private contractor in the manner required by law with respect to such contracts.

Section 3. The moneys hereby appropriated shall be deemed to be an advancement out of the general fund of the Territory of Hawaii, said fund to be reimbursed from the proceeds of the sale of public lands on the Island of Hawaii.

Section 4. This Act shall take effect upon its approval.

(Approved May 20, 1941, except as to items 3, 5, 13, 16, 17, 18, 19, 20, 21 and 22, which are not approved). **H.B. 421, Act 305.**

[E-315] An Act Appropriating \$3,000.00 for Heightening and Lengthening the Boulder-Concrete Wall Previously Constructed Under Authority of Joint Resolution Number 13 of the Session Laws of Hawaii 1937.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the territorial general fund the sum of three thousand dollars (\$3,000.00) for a two and one-half foot increase in the height, and a seventy foot extension in the length, of the boulder-concrete wall previously constructed under authority of Joint Resolution No. 13 of the Session Laws of Hawaii 1937, said funds to be expended upon vouchers approved by the superintendent of public works.

Section 2. This Act shall take effect upon its approval.

(Approved May 10, 1941.) **H.B. 299, Act 206.**

[E-316] An Act Requiring the Board of Supervisors of the County of Hawaii to Appropriate Funds by Way of Advancement for Investigations, Studies and Other Preliminary Steps to Determine the Feasibility of Issuing Revenue Bonds, and for Preparation for the Issuance of the Same If Found Feasible.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the County of Hawaii is hereby authorized and directed to appropriate the sum of at least fifteen thousand dollars by way of advancement during the year 1941 for investigations, studies, surveys, preparation of estimates, plans and specifications, and other preliminary steps, relating to waterworks in said county, necessary for determining the feasibility of, and if found feasible making preparation for, the issuance of revenue bonds by said county under the Revenue Bond Act of 1935 (Act 174, Series E-174, of the Session Laws of Hawaii 1935, as amended and extended,) for the construction and improvement of waterworks in said county. Said appropriation shall be expended upon vouchers approved by the county engineer and by such other county officer as shall be designated by the board for said purpose.

Section 2. It is provided that all monies expended as provided in this Act shall be reimbursed to the County of Hawaii out of the monies received from the sale of the bonds referred to in section 1 of this Act.

Section 3. This Act shall take effect upon its approval.

(Approved April 23, 1941.) **H.B. 294, Act 85.**

[E-317] An Act Authorizing and Empowering the Board of Supervisors of the County of Hawaii to Pay the Claim of Antone Amaral for Damage to His Car Incurred in Line of Duty.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the county of Hawaii is hereby authorized and empowered to appropriate from any available funds and pay to Antone Amaral the sum of two hundred and fifty dollars (\$250.00) for damage incurred to his car December 30, 1936, while he was using the same in

line of duty and the same being washed over the embankment at Honolii, Hilo, Hawaii.

Section 2. The aforesaid sum shall be paid only upon the execution by the said Antone Amaral and delivery to said board of a full release of said county from all further liability on account of such claim.

Section 3. This Act shall take effect upon its approval.

(Approved April 29, 1941.) **S.B. 286, Act 123.**

KAUAI.

[E-318] An Act to Amend Act 186, Series E-237, of the Session Laws of Hawaii 1937, as Amended, Authorizing the County of Kauai to Issue Bonds for Public Improvements, by Amending Section 1 Thereof and by Repealing Section 6-A Thereof.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 1 of Act 186, Series E-237, of the Session Laws of Hawaii 1937, as amended by Act 64, Series E-243, of the Session Laws of Hawaii 1939, is hereby amended by substituting, for the words and figures therein reading:

“New buildings and additions, Samuel Mahelona

Memorial Hospital\$50,000.00”,
the following words and figures, to wit:

“Samuel Mahelona Memorial Hospital: new
buildings and additions, nurses cottages and
other improvements in hospital grounds, and
fixtures and equipment.....\$50,000.00”.

Section 2. Section 6-A of said Act 186, as enacted by Act 38, Series E-242, of the Session Laws of Hawaii 1939, is hereby repealed.

Section 3. This Act shall take effect upon its approval.

(Approved April 8, 1941.) **H.B. 3, Act 13.**

[E-319] An Act to Amend Act 186 (Series E-237) of the Session Laws of Hawaii 1937, by Amending Section 3 Thereof, Authorizing the County of Kauai to Issue Bonds for Public Improvements.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Section 3 of Act 186 (Series E-237), of the Session Laws of Hawaii 1937, is hereby amended to read as follows:

“Section 3. Feasibility estimate by county engineer. Before expending the proceeds of said bonds for the construction of water works, the county engineer shall, in each case, make a definite estimate of the amount of water to be sold by the system to be improved, an estimate of the amount of revenue which will be produced thereby and an estimate of the amount of operating cost of the water works, together with the interest and redemption cost on account of bond moneys to be expended for the water works and shall report his findings to the board of supervisors. The board shall thereupon determine the financial feasibility of making such improvements, taking into consideration, however, the estimated revenues and operating costs of, and the interest and redemption cost on account of all bond moneys expended or to be expended for, all of the water works under the management and control of the Kauai water works bureau.”

Section 2. This Act shall take effect upon its approval.

(Approved May 13, 1941.) **H.B. 20, Act 214.**

[E-320] An Act Authorizing the County of Kauai to Issue Bonds for Public Improvements.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The county of Kauai is hereby authorized and empowered to issue, in accordance with the provisions of Act 272 of the Session Laws of Hawaii 1927, bonds in any amount not exceeding the sum of six hundred thousand dollars (\$600,000.00), said bonds to be serial bonds maturing in substantially equal annual installments, the first installment to mature in five years from the date of issue of such series and the last installment not later than thirty years from such date

of issue, the moneys realized from said bonds so issued to be expended as follows:

Roads and bridges, Kauai Belt Road.....	\$175,000.00
Water Works, installations, extensions and/or im- provements	75,000.00
Wailua Bridge	50,000.00
Kapaa Gymnasium	25,000.00
Waimea High School Gymnasium.....	25,000.00
New buildings and additions, Samuel Mahelona Memorial Hospital	250,000.00
	\$600,000.00

The sum of money to be expended as hereinabove specified shall not be expended for reconditioning, repairs and/or maintenance, or the construction of sidewalks or footpaths.

Section 2. **Belt Road defined.** For the purposes of this Act, the Kauai Belt Road shall be known as that road beginning at the Kekaha Post Office, passing through the villages of Waimea, Eleele, Koloa, Lihue, Kapaa, and ending at the Hanalei Post Office. It shall include that road generally known as the Nawiliwili Loop Road and that road generally known as the McBryde Mill Road.

Section 3. **Feasibility estimate by county engineer.** Before expending the proceeds of said bonds for the construction of water works, the county engineer shall, in each case, make a definite estimate of the amount of water to be sold by the system to be improved, an estimate of the amount of revenue which will be produced thereby and an estimate of the amount of operating cost of the water works, together with the interest and redemption cost on account of bond moneys to be expended for the water works and shall report his findings to the board of supervisors. The board shall thereupon determine the financial feasibility of making such improvements, taking into consideration, however, the estimated revenues and operating costs of, and the interest and redemption cost on account of all bond moneys expended or to be expended for, all of the water works under the management and control of the Kauai water works bureau.

Section 4. **Principal and interest charges, how paid.** All interest on and redemption of such bonds as are issued for water works purposes shall be paid from the proceeds of water sales and service and the territorial treasurer shall, in levying taxes for interest and redemption of bonds provided for in this

Act, deduct such an amount as the expenditures for water works from the proceeds of said bonds, bear to the total of such bonds so issued. In making the annual report of the county tax requirements to the territorial treasurer, the board of supervisors shall set forth such requirements in such a manner as to clearly indicate the proportion and amount of said bonds issued for road purposes and the interest and redemption requirements thereon for the ensuing year.

Section 5. **Issues as required.** Nothing herein contained shall require the issuance of bonds in the full amount authorized herein or prevent the issuance of bonds in such amount as may be required from time to time provided that the sum total of said issues shall not exceed the amount authorized herein.

Section 6. **Federal aid.** In the event that the roads of Kauai are incorporated in the federal aid highway system of Hawaii prior to the expenditure of the road appropriation provided herein, then such part of said appropriation as may be deemed desirable by the board of supervisors shall be expended to match federal aid funds allocated to the roads of the county of Kauai.

Section 7. This Act shall take effect immediately upon the enactment of legislation by the Congress of the United States, enabling the legislature of the Territory of Hawaii to authorize the county of Kauai to issue improvement bonds despite the restrictions upon indebtedness now imposed by section 55 of the Act of April 30, 1900, as amended.

(Approved May 14, 1941.) **S.B. 12, Act 251.**

[E-321] An Act Appropriating the Sum of Seventy Thousand Dollars (\$70,000.00) for Construction Toward Alleviating the Flood and Drainage Menace to the Town of Kapaa, in Accordance With the General Provisions of "Master Plan of Town of Kapaa, County of Kauai, Hawaii, Publication No. 8, November, 1940", by the Territorial Planning Board, in Compliance With the Provisions of Act 244, Session Laws of Hawaii 1939, and Act 207, Session Laws of Hawaii 1937, and Approving the General Provisions of Said Plan.

Whereas, the town of Kapaa, island of Kauai, is bordered by government land under lease for agricultural purposes,

which lease is about to expire and the company now holding said lease does not plan its renewal as the land is too low and swampy for agricultural uses; and

Whereas, the drainage of such land must be more adequately provided; and

Whereas, it appears that such development can be made selfsupporting by either sale or lease of such land in units of a size to provide the need for houselots from time to time as the population may demand; and

Whereas, a railway line traverses the village which might better be relocated to increase safety and abate the noise and disturbance now existing; and

Whereas, the twentieth session of this legislature mandated, by provision in Act 244, Session Laws of Hawaii 1939, the territorial planning board in conjunction with the board of supervisors, county of Kauai, to prepare a plan for the town of Kapaa with particular study of the reclamation of territorial lands adjoining the town with a view to determine the best use of such lands, and to recommend to this twenty-first session of the legislature its findings; and

Whereas, said territorial planning board in conjunction with the board of supervisors, county of Kauai, has made such a study and has presented to this legislature its "master plan of the town of Kapaa, county of Kauai, Hawaii, publication No. 8, November, 1940"; now, therefore.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the county of Kauai is hereby authorized to adopt such portions of the master plan of the town of Kapaa, county of Kauai, Hawaii, prepared by the territorial planning board, being publication No. 8, November, 1940, of the territorial planning board, as may be desirable or necessary for the adoption by said board of supervisors of an official map of the section or of the island.

Section 2. The superintendent of public works is hereby authorized and directed to prepare, in accordance with the provisions of the aforesaid master plan and with the approval of the territorial planning board, a project schedule of construction necessary to alleviate the flood and drainage menace to the town of Kapaa.

Section 3. There is hereby appropriated out of the general fund of the Territory the sum of seventy thousand dollars.

(\$70,000.00) for the purpose of defraying the initial cost of said construction.

Section 4. The aforesaid sum shall be disbursed by the treasurer upon warrants drawn by the auditor based upon vouchers approved by the superintendent of public works.

Section 5. The amount hereby appropriated shall be deemed an advancement and shall be repaid into said general fund from the proceeds of the sale or lease of lands reclaimed in said construction.

Section 6. This Act shall take effect upon its approval.

(Approved May 17, 1941.) **S.B. 230, Act 274.**

[E-322] An Act Appropriating Funds and Providing for the Construction of a River Wall, Embankment or Other Precautionary Works Necessary to Control the Flood Waters of the Hanapepe River, Kauai.

Whereas, because of existing conditions affecting the action of the sea. (these conditions being caused by the installation of the breakwater at Eleele Harbor, Port Allen, Kauai), serious damage has been done and is being done to all of that property bordering the beach of the said Eleele Harbor; and

Whereas, this action of the sea has resulted in a change of the currents in this harbor, this change of currents lifting and depositing tons of sand at the mouth of Hanapepe River where it empties into the harbor, and completely blocking the mouth of this river, causing the waters of this river to back up and inundate much of the property along the banks of this river, thus causing a great deal of trouble and damage to property holders in Hanapepe town; and

Whereas, practically all of this property is territorial property, leased to a large number of individual holders; and

Whereas, the territorial government should undertake to provide protection to such persons from the inroads of these waters; and

Whereas, the County of Kauai, under the provisions of Act 64, Series E-243, of the Session Laws of Hawaii 1939, realized the necessity of providing this protection to the town of Hanapepe and floated county bonds in the amount of \$50,000.00 towards this protection; and

Whereas, a moral responsibility rests upon the territory to make some effort to protect its own property; now, therefore,

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of \$50,000.00 is hereby appropriated from the general revenues of the Territory of Hawaii, these funds to be matched by the funds provided by the County of Kauai under the provisions of Act 64, Series E-243, of the Session Laws of Hawaii 1939, for the construction of a river wall, embankment or other precautionary works necessary to control the flood waters of the Hanapepe River, Kauai.

Section 2. The board of supervisors of the County of Kauai is hereby authorized to enter into any necessary agreement with the Territory of Hawaii whereby the County of Kauai shall construct the said river wall, embankment or other precautionary works on plans and specifications prepared and submitted by the department of public works of the Territory of Hawaii, and for the joint expenditures of the monies heretofore referred to and, together with the territorial government, may enter into any necessary agreements with any federal authority authorized to appropriate or expend monies as aid in territorial flood control projects for the purpose hereinabove stated.

Section 3. This Act shall take effect upon its approval.

(Approved May 20, 1941.) **H.B. 440, Act 306.**

[E-323] An Act Directing the Department of Public Works and the Board of Harbor Commissioners to Institute Immediate Measures Towards Preventing the Existent and Continued Erosion by the Sea of the Land and Roads Abutting Port Allen Harbor at Eleele, Kauai.

Whereas, because of the action of the sea, a large tract of sand, seven or eight hundred feet in depth and thirty feet high, has been carried away by erosion along a major portion of the lands abutting Port Allen Harbor at Eleele, Kauai; and

Whereas, said erosion has already caused and is continuing to cause untold damage to property holders and roadways along said beach; and

Whereas, this erosion has already approached within a few feet of a burial plot in which are buried the remains of many former residents of Kauai, with the result that within a very

short time these remains will be carried out to sea, as already has, the seven or eight hundred feet of sand that stood between said burial ground and the sea; and

Whereas, the department of public works and the board of harbor commissioners are the proper territorial authorities charged with instituting preventative measures that will alleviate conditions of this nature; now, therefore,

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The department of public works, and the board of harbor commissioners of the Territory of Hawaii are hereby directed to institute immediate measures towards preventing the existent and continued erosion by the sea of the land abutting Port Allen Harbor, along what is known as the Old Airport Road at Elelee, Kauai.

Section 2. For the purpose of performing this emergency work, the superintendent of public works is hereby authorized and directed to use any of the monies remaining in that particular item, reading

32. Hanapepe River Embankment as provided
for in Act 247, Series E-177, Session Laws of
1937\$15,000.00

Section 3. This Act shall take effect upon its approval and the superintendent of public works is thereby directed to commence the necessary measures preventing said erosion within sixty days after this Act becomes law.

(Approved May 20, 1941.) **H.B. 441, Act 307.**

[E-324] An Act Appropriating Two Thousand Dollars (\$2,000.00) for the Clearing and Improving of Olokauha Stream at Anahola, Kauai.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of two thousand dollars (\$2,000.00), or so much thereof as may be necessary, is hereby appropriated from the general fund of the Territory for the clearing and improving of Olokauha stream at Anahola, Kauai.

Section 2. The aforesaid sum, or so much thereof as may be necessary, shall be disbursed by the treasurer upon war-

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rants drawn by the auditor based upon vouchers approved by the superintendent of public works.

Section 3. The amount hereby appropriated shall be deemed an advancement, and so much thereof as shall be expended, shall be repaid into the said general fund from the proceeds of sales of public lands in the county of Kauai.

Section 4. This Act shall take effect upon its approval.

(Approved May 16, 1941.) **S.B. 99, Act 260.**

Am., Sr. ^{E 94} S.
P. Sp.S./41

[E-325] An Act Making an Appropriation for the Maintenance and Upkeep of the Kuhio Memorial Park, Koloa, Kauai, in Memory of the Late Prince Jonah Kuhio Kalani-anaole.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. That there is hereby appropriated the sum of twenty-four hundred dollars (\$2,400.00) out of the moneys available in the treasury of the Territory of Hawaii for the 1941-1943 biennium to be expended under the supervision of the superintendent of public works of the Territory for the maintenance and upkeep of said park.

Section 2. The expenditures from such appropriation shall be made upon vouchers approved by the superintendent of public works, and the auditor of the Territory of Hawaii is hereby authorized and directed to draw warrants against such appropriation with such approval.

Section 3. This Act shall take effect after the date of its approval.

(Approved May 10, 1941.) **S.B. 55, Act 202.**

[E-326] An Act to appropriate Moneys by Way of an Advancement Out of the General Revenue of the Territory of Hawaii, the Same to be Reimbursed Out of the Proceeds of Sale of Public Lands in Kekaha, Kauai, to Reimburse the County of Kauai for Paving Certain Roads in Kekaha Houselots, Kekaha, Kauai.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The sum of four thousand four hundred seven-

ty-one and 57/100 dollars (\$4,471.57) is hereby appropriated out of the moneys in the treasury of the Territory of Hawaii not otherwise appropriated, to reimburse the county of Kauai for expending said sum to pave Kala and Akiola roads in Kekaha houselots, Kekaha, Kauai.

Section 2. The said sum of four thousand four hundred seventy-one and 57/100 dollars (\$4,471.57) hereby appropriated, shall be paid on warrant drawn by the auditor based on vouchers approved by the commissioner of public lands, and the amount so paid to the county of Kauai shall be deemed as an advancement out of the general revenues and be reimbursed to the general revenues out of the proceeds of sale of public lands at Kekaha, Kauai, when hereinafter received.

Section 3. This Act shall take effect upon its approval.

(Approved May 8, 1941.) **S.B. 220, Act 173.**

[E-327] An Act Confirming and Approving Disbursements Out of Fuel Tax Highway Fund Which Were Expended for Certain Constructions Within the County of Kauai.

Whereas, the county of Kauai has expended moneys out of the fuel tax highway fund aggregating seventeen thousand four hundred eighty-four and 56/100 dollars (\$17,484.56) for the construction of elevated footpaths, an overpass at Eleele, and repair of equipment used to crush rocks for said projects of which eleven thousand four hundred fifty-one and 72/100 dollars (\$11,451.72) were expended in the year 1939, and six thousand thirty-two and 84/100 dollars (\$6,032.84) were expended in the year 1940; and

Whereas, the department of the treasurer of the Territory of Hawaii through its examiners has indicated that, in its opinion, expenditures such as the above constitute an improper and illegal use of the fuel tax highway fund as provided in section 2021, Revised Laws of Hawaii 1935, as amended by Act 172, Session Laws of Hawaii 1937, and that the amounts shown above should be restored by reimbursement from some other fund; and

Whereas, at the time of said direction, to wit: on April 11, 1940, all the funds of the said county of Kauai were appropriated and applied for the purposes for which they were allocated; and

Whereas, the aforesaid funds were used to provide safety of travel on the public highways to all its users, particularly the pedestrians, within the said county, which application was made with the honest belief that such funds were and are available for that purpose, now, therefore,

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the expenditure of the sum of seventeen thousand four hundred eighty-four and 56/100 dollars (\$17,484.56) for the purposes as aforesaid be, and the same is hereby, approved and confirmed.

Section 2. This Act shall take effect from and after the date of its approval.

(Approved April 8, 1941.) **S.B. 151, Act 12.**

[E-328] An Act Authorizing and Directing the County of Kauai to Reimburse Y. Yamada for Split Rock Furnished and Used in the Construction of the Lawai Valley Road.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the county of Kauai is hereby authorized and directed to pay to Y. Yamada, of Koloa, Kauai, the sum of one hundred and twenty-nine dollars (\$129.00) for split rock furnished and used in the construction of the Lawai Valley Road.

Section 2. This Act shall take effect upon its approval.

(Approved April 24, 1941.) **S.B. 231, Act 95.**

[E-329] An Act for the Relief of the Kauai Public Library Association, Limited.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general revenues of the Territory of Hawaii the sum of one hundred and seventy-six dollars (\$176.00) for the relief of the Kauai Public Library Association, Limited.

Section 2. The sum hereby appropriated shall be paid by the treasurer of the Territory of Hawaii to the Kauai Public

Library Association, Limited, upon a warrant issued by the auditor of the Territory.

Section 3. This Act shall take effect upon its approval.

(Approved April 16, 1941.) **S.B. 54, Act 35.**

MAUI.

[E-330] An Act to Amend Act 262 of the Session Laws of Hawaii 1931 as Amended by Act 104 of the Session Laws of Hawaii 1933 and as Further Amended by Act 3 of the Special Session Laws of Hawaii 1933 Being an Act Authorizing the County of Maui to Issue Bonds for Certain Permanent Improvements.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Act 262 of the Session Laws of Hawaii 1931 as amended by Act 104 of the Session Laws of Hawaii 1933 and as further amended by Act 3 of the Special Session Laws of Hawaii 1933 is hereby further amended to read as follows:

"Section 1. The County of Maui is hereby authorized and empowered to issue, pursuant to and in accordance with Act 272 of the Session Laws of Hawaii 1927, bonds in the sum of six hundred twenty thousand dollars (\$620,000.00); said bonds to be serial bonds maturing in substantially equal annual installments, the first installment to mature in five years from the date of issue of such series, and the last installment not later than thirty years from such date of issue. The principal and interest of such bonds shall be paid, when due, out of the general revenues of the County of Maui.

Section 2. The moneys realized from the bond issue shall be expended for the following specific purposes in said County of Maui:

Kula Water Works and storage and/or developing new water sources.....	\$146,156.18
Wailuku-Kahului Water Works.....	93,436.44
Pipe line lateral for Paia from Kamaole.....	8,843.82
Kahului Sewer System.....	59,563.56
Wailuku Sewer System.....	300,000.00
Pipe lines and/or water works and/or water de- velopment for East Molokai.....	12,000.00

Section 3. In case the amount specified in any item in sec-

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tion 2 shall not be wholly required to complete the work on such item, the unrequired balance may, after completion of said item, be expended for the work specified in any of the other items in said section and any unrequired balance remaining after the completion of all of the items in this section may be used for permanent improvements in the county."

Section 2. This Act shall take effect from and after the date of its approval.

(Approved April 29, 1941.) **H.B. 454, Act 129.**

Am., Sr. ⁸⁹⁸ S. ^{.....}
D. ^{.....} Sp.S./41

[E-331] An Act Authorizing and Directing the Board of Supervisors of the County of Maui to Appropriate \$32,000.00 for Construction and Equipment of Malulani Ward and Ualapue Ward, and for Equipment for Hana Hospital, in the County of Maui.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the County of Maui is hereby authorized and directed to appropriate from its general fund the sum of thirty-two thousand dollars (\$32,000.00), expendable on vouchers approved by the county engineer, for the following:

Malulani Maternity Ward, Construction and Equipment	\$25,000.00
Ualapue Maternity Ward, Construction and Equipment	5,000.00
Hana Hospital, X-Ray and Equipment.....	2,000.00

Section 2. This Act shall take effect upon its approval.

(Approved April 30, 1941.) **H.B. 487, Act 134.**

[E-332] An Act Appropriating \$10,000.00 for Improvement of a Parking Area at Mala Wharf, Maui.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. There is hereby appropriated from the general fund of the territory the sum of ten thousand dollars (\$10,000.00), to be expended upon warrants of the territorial auditor based upon vouchers approved by the chairman of the

board of harbor commissioners, for the improvement of a parking area to be set aside for that purpose along the southwest side of Mala Wharf Road and lying between L. C. Aw. 277 and the sea.

Section 2. This Act shall take effect upon its approval.

(Approved May 2, 1941.) **H.B. 130, Act 148.**

FRANCHISES.

[E-333] An Act to Amend Act 101 of the Session Laws of Hawaii 1921, Relating to the Manufacture, Maintenance, Distribution and Supply of Electric Current for Light and Power Within the Districts of North and South Hilo and Puna, in the County of Hawaii, so as to Extend the Franchise to the Districts of Kau and South Kohala in Said County, and Extend the Term Thereof as to the Town of Hilo.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the title of Act 101 of the Session Laws of Hawaii 1921, is hereby amended to read as follows:

“An Act to Authorize and Provide for the Manufacture, Maintenance, Distribution and Supply of Electric Current for Light and Power Within the Districts of North and South Hilo, Puna, Kau and South Kohala in the County and Territory of Hawaii.”

Section 2. Section 1 of said Act is hereby amended to read as follows:

“Section 1. Franchise. Harold V. Patten, of Hilo, County of Hawaii, Territory of Hawaii, his associates, successors and assigns, or such corporations as he may or they shall cause to be incorporated under the laws of the Territory of Hawaii (he or they being hereinafter referred to as ‘the association’), are hereby granted the right, authority and privilege to manufacture, sell, furnish and supply electric light, electric current, or electric power, in the districts of North and South Hilo, Puna, Kau and South Kohala, on the island of Hawaii, Territory of Hawaii, for lighting the streets, roads, public and private buildings, or for motive power, or for any other purpose which the association may deem advisable and from time to time for the term of fifty years, for the purposes herein mentioned, to construct, maintain and operate suitable poles, lines, wires,

cables, lamps, lamp posts, conductors, conduits, and such other appliances and appurtenances as may from time to time be necessary for the transmission, distribution, or supply of electricity to consumers thereof, under, along, upon and over the streets, sidewalks, roads, squares, bridges, alleys and lanes in said districts of North and South Hilo, Puna, Kau and South Kohala, and to connect the said wires, lines and conductors, with any manufactory, private or public buildings, lamps, lamp posts, or other structure or object and the place or source of supply."

Section 3. Section 3 of said Act is hereby amended to read as follows:

"Section 3. Poles not to interfere with streets. That all poles, lines, wires, cables, lamps, lamp posts, conductors, conduits, and other apparatus constructed, maintained or operated under, along, upon, or over the streets, sidewalks, roads, squares, bridges, alleys and lanes in said districts of North and South Hilo, Puna, Kau and South Kohala, shall be so constructed, and maintained and operated by the association as not to interfere unnecessarily with the use of such streets, sidewalks, roads, squares, bridges, alleys and lanes by the public."

Section 4. Section 11 of said Act is hereby amended to read as follows:

"Section 11. Forfeiture of franchise. That if said association, its representatives, successors and assigns, shall fail or refuse to do or perform or comply with any of the provisions of this Act or the laws of the Territory of Hawaii, and continue to refuse or fail to perform or comply therewith after reasonable notice given by the public utilities commission of the Territory of Hawaii to comply therewith, said public utilities commission may, with the consent of the governor and of the attorney general, cause proceedings to be instituted before any appropriate tribunal to have the franchise hereby granted and all rights and privileges accruing hereunder forfeited and declared null and void. And in case of a forfeiture of this franchise, the Territory of Hawaii, and County of Hawaii, or any political subdivision thereof, shall have the right to purchase all the property of the association within the said districts of North and South Hilo, Puna, Kau and South Kohala, at the value thereof, such value to be determined as hereinafter provided; provided, that notice of such desire and intention to purchase is given to the association by the Territory of Hawaii or the County of Hawaii or any political subdivision thereof within sixty days after the forfeiture of this franchise."

Section 5. Said Act is hereby further amended by adding thereto a new section to be numbered 15-A, to read as follows:

"Section 15-A. Time of commencing work in the districts of Kau and South Kohala. That the rights hereby granted with respect to the districts of Kau and South Kohala shall cease and determine if operations hereunder in said districts are not commenced before two years after the approval of this Act by the Congress of the United States, by beginning the construction of buildings or other works for manufacturing, transmitting or supplying electric current for light and power, or by placing poles and wiring the same, or constructing conduits and laying wires therein, in any of the streets, roads or other places in said districts, for the purpose of conducting electric current for light and power; and also if sufficient works are not completed and in operation to supply electric current for light and power, or if electric current for light and power be not supplied before two years after the approval of this Act by the Congress of the United States."

Section 6. This Act shall take effect on its approval by the Congress of the United States.

(Approved April 26, 1941.) **S.B. 62, Act 112.**

REPEALING ACT.

[E-334] An Act to Repeal Joint Resolution No. 7 of the Regular Session of 1939, Relating to Amendments to the Hawaiian Homes Commission Act of 1920.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. Joint Resolution No. 7 of the Regular Session of 1939 of the Legislature of the Territory, requesting the Congress of the United States to amend sections 203 (4), 204 (4), 207 (1), 208 (3), 209 (1), 215 (2), 220 and 224 of the Hawaiian Homes Commission Act of 1920 is hereby repealed.

Section 2. This Act shall take effect upon its approval.

(Approved April 21, 1941.) **H.B. 311, Act 54.**

JOINT RESOLUTIONS.**J.R. 1**

Joint Resolution Setting Aside Wednesday, June 25, 1941, as a Legal Holiday in the Territory of Hawaii on the Occasion of the One Hundredth Anniversary of Punahou School.

WHEREAS, Punahou School was founded 100 years ago; and

WHEREAS, there are thousands of graduates of this institution throughout the Territory; and

WHEREAS, this institution has profoundly influenced for good the growth and development of the people of these islands; and

WHEREAS, the week of June 22-28, 1941, is set aside for the celebration of the 100th anniversary, and is to be known as Anniversary Week; and

WHEREAS, Wednesday, June 25, 1941, is to be the day on which the chief centennial exercises will be held; now, therefore,

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. That Wednesday, June 25, 1941, be and hereby is set aside as a legal holiday in the Territory of Hawaii.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved April 1, 1941.) **S.J.R. 11, J.R. 1.**

J.R. 2.

Joint Resolution Memorializing the Congress of the United States of America to Make Appropriations for the Endowment and Maintenance of the Agricultural Experiment Station of the Territory of Hawaii in Accordance With the Provisions of the Act of Congress Entitled "An Act to Extend the Benefits of Certain Acts of Congress to the Territory of Hawaii," Approved May 16, 1928 (45 Stat. at L. 571), and to Make Additional Appropriations therefor.

WHEREAS, the Act of Congress entitled "An Act To Extend The Benefits Of Certain Acts Of Congress To The Territory

Of Hawaii", approved May 16, 1928 (45 Stat. at L. 571), provides that the Territory of Hawaii is entitled to share in the benefits of the Hatch Act (24 Stat. at L. 440), as amended and supplemented by the Adams Act (34 Stat. at L. 63) and the Purnell Act (Agricultural Experiment Stations) (43 Stat. at L. 970), and authorizes certain sums to be appropriated for the endowment and maintenance of an agricultural experiment station in the Territory of Hawaii; and

WHEREAS, the amounts authorized to be appropriated by said Act of May 16, 1928 and those actually appropriated by the Congress have been as follows:

Fiscal Year	Amount Authorized	Amount Appropriated	Difference	Accumulated Deficit
1930	\$15,000	\$15,000		
1931	20,000	20,000		
1932	22,000	22,000		
1933	24,000	24,000		
1934	26,000	26,000		
1935	28,000	28,000		
1936	30,000	30,000		
1937	50,000	50,000		
1938	60,000	50,000	—\$10,000	\$10,000
1939	70,000	55,000	— 15,000	25,000
1940	80,000	60,000	— 20,000	45,000
1941	90,000	67,500	— 22,500	67,500

and
WHEREAS, under the bill to make appropriations for the department of agriculture for the fiscal year ending June 30, 1942, now before the Congress, the Territory will not receive the sum of \$90,000, the amount authorized by the Act of May 16, 1928, and will not receive any increase over the amount appropriated for the year ending June 30, 1941; and

WHEREAS, by reason of deficiencies in the appropriations for the fiscal years 1938 to 1941, inclusive, there is at present an accumulated deficit of \$67,500 which the Territory was entitled to be granted under the said Act of May 16, 1928; and

WHEREAS, the said accumulated deficit of \$67,500 and the proposed deficiency for the fiscal year ending June 30, 1942 of \$22,500 totals \$90,000; and

WHEREAS, the loss of \$90,000 over a period of five years is a matter of extreme concern to the Territory; and

WHEREAS, all states, regardless of size, importance, nearness

to federal research centers or other factors, receive \$90,000 a year from the federal government for the support of their agricultural experiment stations; and

WHEREAS, the Hawaii Agricultural Experiment Station is provided with a technical staff of highly trained men, land, buildings, laboratories and other facilities for conducting agricultural research in the manner provided in the several Acts of Congress; and

WHEREAS, the Territory is bearing a larger portion of the cost of maintenance of its agricultural experiment station than many of the states; and

WHEREAS, the research in progress by the Hawaii Agricultural Experiment Station is extremely important to not only the Territory of Hawaii, but also the United States; and

WHEREAS, in this time of national emergency, because of the isolation of the Territory, the production of food and feed crops is next in importance only to the maintenance of the armed forces in the Territory, if, indeed, it can be distinguished as a separate problem; and

WHEREAS, the production of food crops and the development of an economically sound program of diversification of crops requires continuous, intensive and detailed research; and

WHEREAS, such deficiencies in appropriations represent important research which might have been accomplished along the lines of development of adapted varieties, improved cultural practices, new methods of disease and insect control, greater utilization of local feeds and by-products, control of poultry and livestock parasites and diseases, etc.; and

WHEREAS, the Hawaii Agricultural Experiment Station needs a greatly increased endowment to pay the necessary expenses of conducting the investigations and making the experiments upon which an adequate program of seed and food production can be based; and

WHEREAS, in view of the strategic position of the Territory, the agricultural problems of the Territory are of national concern as well as of vital importance to the welfare of the people of the Territory; now, therefore,

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the Congress of the United States of America be, and it hereby is, urgently requested to give careful

consideration to the facts hereinbefore set forth, and (1) to increase the appropriation for the Territory of Hawaii for its agricultural experiment station for the year ending June 30, 1942, from \$67,500 to \$90,000 as authorized by the said Act of May 16, 1928, and to appropriate a similar sum for the year ending June 30, 1943; and (2) to appropriate for the Territory of Hawaii for its agricultural experiment station an additional amount on account of deficiencies in the appropriations for the years ending June 30, 1938 to 1941, inclusive.

Section 2. That duly authenticated copies of this Joint Resolution be forwarded to the President, the Secretary of Agriculture, the Secretary of the Interior and each of the two houses of the Congress of the United States of America, and to the Delegate to Congress from the Territory of Hawaii.

Section 3. That this Joint Resolution shall take effect upon its approval.

(Approved April 18, 1941.) **S.J.R. 8, J.R. 2.**

J.R. 3

Joint Resolution Requesting the Congress of the United States to Amend the Hawaiian Homes Commission Act of 1920, as Amended, by Amending Sections 203 (4), 208 (3), 209, 213, 215, 220 and 222 Thereof and by Adding Thereto a New Section to be numbered Section 225, All Relating to the Powers, Duties and Functions of the Hawaiian Homes Commission.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Congress of the United States is hereby respectfully requested, through the Delegate to Congress from the Territory of Hawaii, to make certain amendments to the Hawaiian Homes Commission Act of 1920, as amended, as more particularly set forth in the proposed form of the bill hereinafter set out; and to that end the Congress of the United States is hereby requested and urged, through said Delegate to Congress, to enact and adopt a bill amendatory of the Hawaiian Homes Commission Act of 1920, as amended, in substantially the following words and figures, to wit:

“A Bill to amend the Hawaiian Homes Commission Act of 1920, as amended, by amending sections 203 (4), 208 (3), 209, 213, 215, 220 and 222 thereof and by adding thereto a new sec-

tion to be numbered section 225, all relating to the powers, duties and functions of the Hawaiian Homes Commission.

Be it Enacted by the Senate and House of Representatives of the United States of America in Congress Assembled,

Section 1. That section 203 (4) of the Hawaiian Homes Commission Act, 1920 is hereby amended so that the first course describing '(1) Portion of the government land at Auwaiolimu Punchbowl Hill, Honolulu, Oahu' of the available lands on the Island of Oahu will read as follows:

'1. One hundred and sixty-three degrees thirty-one minutes two hundred and thirty-eight and eight-tenths feet along the east side of Punchbowl-Makiki Road;'

Section 2. Section 208 (3) of the Hawaiian Homes Commission Act, 1920 is hereby amended to read as follows:

'(3) The lessee shall occupy and commence to use or cultivate the tract as his home or farm within one year after the lease is made. The lessee of a farm lot shall plant and maintain not less than 5, 10, 15 and 20 trees per acre of land leased, and the lessee of a pastoral lot shall plant and maintain not less than 2, 3, 4 and 5 trees per acre of land leased during the first, second, third and fourth years, respectively, after the date of lease. Such trees shall be of types approved by the commission and at locations specified by the commission's agent. Such planting and maintenance shall be by or under the immediate control and direction of the lessee. Such trees shall be furnished by the commission free of charge.'

Section 3. Section 209 of the Hawaiian Homes Commission Act, 1920 is hereby amended as follows:

1. By amending paragraph (1) thereof to read as follows:

'(1) Upon the death of the lessee, his interest in the tract or tracts and the improvements thereon, including growing crops (either on the tract or in any collective contract or program to which the lessee is a party by virtue of his interest in the tract or tracts), shall vest in the relations of the decedent as provided in this paragraph. From the following relatives of the lessee,—husband and wife, children, widows or widowers of the children, grandchildren, brothers and sisters, widows or widowers of the brothers and sisters, or nieces and nephews,—the lessee shall designate the person or persons to whom he directs his interest in the tract or tracts to vest upon his death. Such person or persons must be qualified to be a lessee of Hawaiian home lands, provided, however, that Hawaiian blood requirements shall not apply to the descendants of those who are not native Hawaiians but who were entitled

to the leased lands under the provisions of section 3, public document No. 227 in the 73rd Congress, approved May 16, 1934; and provided, further, that such person or persons need not be twenty-one years of age. Such designation must be in writing, filed with the commission and approved by the commission, in order to be effective to vest such interests in the successor or successors so named.

In the absence of such a designation as approved by the commission, the commission shall select from the relatives of the lessee, as limited by the foregoing paragraph, one or more persons who are qualified to be lessees of Hawaiian home lands, except that such person or persons need not be twenty-one years of age, as the successor or successors of the lessee's interest in the tract or tracts, and upon the death of the lessee, his interest shall vest in the person or persons so selected. The commission may select such a successor or successors after the death of the lessee and the rights to the use and occupancy of the tract or tracts may be made effective as of the date of the death of such lessee.

In the case of the death of a lessee leaving no such relative qualified to be a lessee of Hawaiian home lands, the land subject to the lease shall resume its status as unleased Hawaiian home lands and the commission is authorized to lease such land to a native Hawaiian or Hawaiians as provided in this Act.

Upon the death of a lessee leaving no such relative qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the commission, or the surrender of a lease by the lessee, the commission shall appraise the value of all such improvements and growing crops and shall pay to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, the value thereof, less any indebtedness to the commission, or for taxes, or for any other indebtedness the payment of which has been assured by the commission, from the deceased lessee or the previous lessee. Such payment shall be made out of the loan fund and shall be considered an advance therefrom reimbursable out of payments made by the successor or successors to the trust involved.

Such appraisal shall be made by three appraisers, one of which shall be named by the commission, one by the previous lessee or the legal representative of his estate, and the third shall be selected by the two appraisers hereinbefore mentioned.'

2. By deleting therefrom paragraph (3) thereof.

3. By substituting for the figure '(4)', of paragraph (4) thereof, the figure '(3)'.

Section 4. Section 213 of the Hawaiian Homes Commission Act, 1920 is hereby amended to read as follows:

'Sec. 213. Hawaiian home loan fund; Hawaiian home development fund; Hawaiian home administration account; how constituted. There is hereby established in the treasury of the territory a revolving fund to be known as the Hawaiian home loan fund and special funds to be known as the Hawaiian home development fund and the Hawaiian home administration account. Thirty (30%) per centum of the territorial receipts derived from the leasing of cultivated sugar cane lands under any other provisions of law, or from water licenses, shall be deposited into the Hawaiian home loan fund until the aggregate amount of moneys deposited therein from such two sources, together with moneys received and deposited therein from any other sources, not including however installment payments upon loans made to lessees or payments by a successor or successors to the tract representing reimbursements on account of the advance made pursuant to section 209 (1), shall equal two million (\$2,000,000.00) dollars. In addition to these moneys and the moneys covered into the loan fund as installments paid by lessees upon loans made to them as provided in paragraph 2 of section 215, there shall be deposited into said revolving fund all other moneys, except moneys received for the Hawaiian home administration account, received by the commission from any source whatsoever. The moneys in said fund shall be available only for loans to lessees as provided for in this Act, for interest and sinking fund charges upon bonds issued for Hawaiian homes purposes and for the payments provided for in section 209 (1), and shall not be expended for any other purpose whatsoever, except that twenty-five (25%) per centum of the amount of moneys so covered into the said revolving fund annually shall be transferred into the Hawaiian home development fund until the aggregate amount of such annual transfers shall equal four hundred thousand (\$400,000.00) dollars. The moneys in said development fund shall be available, with the prior written approval of the governor, for the construction of necessary improvements for domestic use and consumption of water, including the construction of pipe lines and reservoirs, for the construction of sanitary sewerage facilities and for the construction of roads through and over Hawaiian home lands. The commission is authorized and empowered to use moneys in said fund, with the prior written approval of the governor, to match federal, territorial or county funds available for the above purposes and to that end is authorized to enter into such undertaking, agree to such conditions, transfer funds herein available for

such expenditure and do and perform such other acts and things, as may be necessary or required, as a condition to securing match funds for such projects or works.

The entire receipts derived from any leasing of the "available lands" defined in section 204 shall be deposited into the Hawaiian home administration account. The moneys in said account shall be expended by the commission for salaries and all other administration expenses of the commission, not including structures and other permanent improvements, subject, however, to the following conditions and requirements:

(1) The commission shall, at such time as the governor may prescribe, but not later than November 15 preceding each biennial session of the legislature, submit to the territorial director of the bureau of the budget its budget estimates of expenditures for the next ensuing biennium in the manner and form and as required by territorial law of territorial departments and establishments.

(2) The commission's budget, if it meets with the approval of the governor, shall be included in the governor's budget report and shall be transmitted to the legislature for its approval. The total amount of the commission's budget shall in no event exceed the amount of one hundred and forty thousand (\$140,000.00) dollars for the biennium.

(3) Upon approval by the legislature of the commission's budget estimate of expenditures for the ensuing biennium, the amount thereof shall be available to the commission for said biennium and shall be expendable by the commission for the expenses hereinabove provided; any amount of money in said account in excess of the amount approved by the legislature for the biennium shall be transferred to the general fund, such transfer to be made immediately after the amount of moneys deposited in said administration account shall equal the amount approved by the legislature.

(4) The moneys in said administration account shall be expended by the commission in accordance with territorial laws, rules and regulations and practices.

Provided, however, that the receipts from the leasing of available lands as defined in section 204 shall not be covered into said account until July 1, 1943, and provided, further, that for the biennium commencing July 1, 1941, and ending June 30, 1943, the amount of money appropriated by the territorial legislature for the commission, whether or not in excess of one hundred and forty thousand (\$140,000.00) dollars, shall be deposited in said account and shall be expended as herein provided.'

Section 5. Section 215 of the Hawaiian Homes Commission Act, 1920 is hereby amended as follows:

1. By amending paragraph (1) thereof to read as follows:

‘(1) Each contract of loan with the lessee or any successor or successors to his interest in the tract shall be held subject to the following conditions, whether or not stipulated in the contract of loan: The amount of loans at any one time to any lessee, or successor or successors in interest, of a tract of agricultural or pastoral land shall not exceed three thousand (\$3,000.00) dollars and to any lessee, or successor or successors in interest, of a residence lot shall not exceed one thousand (\$1,000.00) dollars: Provided, that where, upon the death of a lessee leaving no relative qualified to be a lessee of Hawaiian home lands, or the cancellation of a lease by the commission, or the surrender of a lease by the lessee, the commission shall make the payment provided for by section 209 (1), the amount of any such payment made to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, shall be considered as part or all, as the case may be, of any such loan to the successor or successors, without limitation as to the above maximum amounts; provided, further, that where, in such cases of the death of a lessee leaving no qualified relatives, or cancellation of a lease by the commission, or the surrender of a lease by the lessee, no payment is due or made the legal representative of the deceased lessee, the successor or successors to the tract shall assume any outstanding loan or loans thereon, if any, without limitation as to the above maximum amounts.’

2. By amending the first sentence of paragraph (2) thereof to read as follows:

‘The loans shall be repaid upon an amortization plan by means of a fixed number of installments, such installments to be monthly, quarterly, semi-annual, or annual as may be determined by the commission in each case, sufficient to cover (a) interest on the unpaid principal at the rate of three (3%) per centum per annum, and (b) such amount of the principal as will extinguish the debt within an agreed period not exceeding thirty years.’

3. By amending paragraph (3) thereof to read as follows:

‘(3) In case of the borrower’s death the commission shall, in any case, permit the successor or successors to the tract to assume the contract of loan subject to the provisions of paragraph (1) of this section. In case of the cancellation of a lease by the commission, or the surrender of a lease by the lessee, the commission may, at its option, declare all annual

installments upon the loan immediately due and payable, or permit the successor or successors to the tract to assume the contract of loan subject to the provisions of paragraph (1) of this section. The commission may, with the concurrence therein of at least three of the five members, in such cases where the successor or successors to the tract assume the contract of loan, waive the payment, wholly or in part, of interest already due and delinquent upon said loan, or postpone the payment of any installment thereon, wholly or in part, until such later date as it deems advisable. Such postponed payments shall, however, continue to bear interest at the rate of three (3%) per centum on the unpaid principal and interest. Further, the commission may, with the concurrence therein of at least three of the five members, if it deems it advisable and for the best interests of the lessees, write off and cancel, wholly or in part, the contract of loan of the deceased lessee, or previous lessee, as the case may be, where such loans are delinquent and deemed uncollectible. Such write-off and cancellation shall be made only after an appraisal of all improvements and growing crops on the tract involved, such appraisal to be made in the manner and as provided for by section 209 (1). In every such case, the amount of such appraisal, or any part thereof, shall be considered as part or all, as the case may be, of any loan to such successor or successors, subject to the provisions of paragraph (1) of this section.'

4. By adding a new paragraph thereto, to be designated and numbered (7) and to read as follows:

'(7) Whenever the commission shall determine that a lessee is delinquent in the payment of his indebtedness to the commission it may require such lessee to execute an assignment to it, not to exceed, however, the amount of the total indebtedness of such lessee, including the indebtedness to others the payment of which has been assured by the commission, of all moneys due or to become due to such lessee by reason of any agreement or contract, collective or otherwise, to which the lessee is a party by virtue of his interest in the tract. Failure to execute such an assignment when requested by the commission shall be sufficient ground for cancellation of the lessee's lease or interest therein.'

Section 6. Section 220 of the Hawaiian Homes Commission Act, 1920 is hereby amended to read as follows:

'Sec. 220. Development projects; appropriations by territorial legislature; bonds issued by legislature. The commission is authorized directly to undertake and carry on general water and other development projects in respect to Hawaiian

home lands and to undertake other activities having to do with the economic and social welfare of the homesteaders, provided, however, that roads through or over Hawaiian home lands, other than federal aid highways and roads, shall be maintained by the county or city and county in which said particular road or roads to be maintained are located. The legislature of the territory is authorized to appropriate out of the treasury of the territory such sums as it deems necessary to augment the Hawaiian home loan fund, the Hawaiian home development fund and the Hawaiian home administration account, and to provide the commission with funds sufficient to execute and carry on such projects and activities. The legislature is further authorized to issue bonds to the extent required to yield the amount of any sum so appropriated. The commission shall pay from the Hawaiian home loan fund into the treasury of the territory:

(1) Upon the date when any interest payment becomes due upon any bond so issued, the amount of the interest then due; and

(2) Commencing with the first such date more than one year subsequent to the issuance of any bond and at each interest date thereafter, an amount such that the aggregate of all such amounts which become payable during the term of the bond, compounded annually at the rate of interest specified therein, shall equal the par value of the bond at the expiration of its term.'

Section 7. Section 222 of the Hawaiian Homes Commission Act, 1920 is hereby amended by amending the second sentence thereof to read as follows:

'All expenditures of the commission, as herein provided out of the Hawaiian home administration account, the Hawaiian home development fund, and all moneys necessary for loans made by the commission, in accordance with the provisions of this chapter, from the Hawaiian home loan fund, shall be allowed and paid upon the presentation of itemized vouchers therefor, approved by the chairman of the commission.'

Section 8. The Hawaiian Homes Commission Act, 1920 is hereby amended by adding thereto a new section to be numbered section 225 and to read as follows:

'Sec. 225. Investment of loan funds; disposition. The commission shall have the power and authority to invest and re-invest any of the moneys in the loan fund, not otherwise immediately needed for the purposes of the fund, in such bonds and

securities as authorized by territorial law for the investment of territorial sinking fund moneys. Any interest or other earnings arising out of such investments shall be credited to and deposited in said fund and shall be included in and considered as a deposit from other sources, as provided for in section 213.'

Section 9. This Act shall take effect on and after the date of its approval."

Section 2. The Secretary of Hawaii is hereby requested and directed to forward certified copies of this Joint Resolution to the Delegate to Congress from Hawaii, to the Secretary of the Interior, and to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States.

Section 3. This Joint Resolution shall take effect upon its approval.

(Approved April 19, 1941.) **H.J.R. 24, J.R. 3.**

J.R. 4

Joint Resolution Memorializing the Congress of the United States of America to Provide for the Issuance, by the Immigration and Naturalization Service of the United States Department of Justice, of Certificates of Citizenship to All Persons Residing in the Territory of Hawaii Who Are Citizens of the United States and Who Apply for Such Certificates and Present Due Proof of Such Citizenship.

WHEREAS, through the cooperation of the immigration and naturalization service of the United States department of justice, provision has been made in subdivision E of rule 11 of the immigration rules and regulations for the issuance of certificates of citizenship to citizens of the United States who are bona fide residents of the Territory of Hawaii; and

WHEREAS, said subdivision E of rule 11 requires that the applicant for such certificates of citizenship must show that they actually intend to depart temporarily from the Territory of Hawaii, and the officers of the immigration and naturalization service, acting under said rule 11, refuse to issue such certificates or to investigate claims of citizenship unless the appli-

cants show to the satisfaction of the immigration and naturalization service that they are about to travel to continental United States or other parts of the world; and

WHEREAS, such certificates are not issued unless the applicants contemplate such travel, and there is danger in the case of such citizens as are not contemplating immediate travel, that the necessary proof of their birth in the Hawaiian Islands, or other facts necessary to establish their citizenship in the United States, will be lost by death or removal from the Territory of Hawaii of witnesses who can testify to facts, or otherwise; and

WHEREAS, the certification of the citizenship, upon due application and proof being made therefor, is a matter of vital importance to the young citizens of oriental ancestry in the Territory of Hawaii, and if provided for will tend to produce greater security and satisfaction in such citizenship and will tend to create better and more loyal citizens of the United States; now, therefore,

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the Congress of the United States of America be and it is hereby urgently requested to provide by appropriate and adequate legislation for the issuance of certificates of citizenship of all persons residing in the Territory of Hawaii who are citizens of the United States and who apply for such certificates to the immigration and naturalization service of the United States department of justice and furnish due proof of such citizenship, regardless of the intention on the part of such applicants to travel or not to travel in the immediate future.

Section 2. That duly authenticated copies of this Joint Resolution be transmitted to the Delegate to Congress from Hawaii, the Secretary of the Interior and the Department of Justice of the United States, and each of the two Houses of the Congress of the United States of America.

Section 3. This Joint Resolution shall take effect upon its approval.

(Approved April 21, 1941.) **S.J.R. 5, J.R. 4.**

J.R. 5

Joint Resolution Relating to the Number of Prisoners to be Maintained at the Olinda Prison Camp, County of Maui, and the Waiakea Prison Camp, County of Hawaii.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The department of institutions of the Territory of Hawaii is hereby authorized to maintain at all times at Olinda Prison Camp, County of Maui, at least forty territorial prisoners, and at Waiakea Prison Camp, County of Hawaii, at least eighty territorial prisoners.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved April 21, 1941.) **H.J.R. 19, J.R. 5.**

J.R. 6.

Joint Resolution Authorizing and Directing the Treasurer of the Territory of Hawaii to Sign and Seal With the Seal of His Office Territory of Hawaii Refunding Bond Numbered 1456, Issue of 1940, in the Amount of One Thousand Dollars (\$1,000.00), Due and Payable November 1, 1947, and to Pay the Principal Amount Thereof on Said Maturity Date and the Interest Thereon on May 1 and November 1 of Each Year Until Maturity.

WHEREAS, on November 1, 1940, W. C. McGonagle, the then treasurer of the Territory of Hawaii, did issue Territory of Hawaii refunding bonds, issue of 1940, in the aggregate amount of two million and four hundred thousand dollars (\$2,400,000.00), said bonds being in the denomination of one thousand dollars (\$1,000.00) each and being numbered consecutively from 1 to 2400, inclusive; and

WHEREAS, in the course of signing said bonds prior to delivery to the purchasers thereof, said W. C. McGonagle inadvertently omitted and failed to sign one of said bonds, more particularly, bond numbered 1456 in the denomination of one thousand dollars (\$1,000.00), with interest coupons attached thereto numbered 1 to 14, inclusive; and

WHEREAS, said W. C. McGonagle died on November 2, 1940, and said bond numbered 1456 was purchased by the Em-

ployees' Retirement System of the Territory of Hawaii together with other bonds of said issue; and

WHEREAS, said bond numbered 1456 still remains unsigned and unsealed although carrying the lithographed signature of W. C. McGonagle on the interest coupons numbered 1 to 14, inclusive, attached thereto; now, therefore,

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The treasurer of the Territory of Hawaii is hereby authorized and directed to sign and seal with the seal of office of the treasurer of the Territory of Hawaii refunding bond numbered 1456, issue of 1940, in the principal amount of one thousand dollars (\$1,000.00), due and payable on November 1, 1947.

Section 2. The treasurer of the Territory of Hawaii is further authorized and directed to pay to the holder of said bond numbered 1456 the principal amount stated therein on November 1, 1947, the maturity date thereof and the interest amounts designated in the interest coupons numbered 1 to 14, inclusive, attached thereto, on May 1 and November 1 of each year during the term of said bond.

Section 3. This Joint Resolution shall take effect from and after the date of its approval.

(Approved April 23, 1941.) **S.J.R. 6, J.R. 6.**

J.R. 7.

Joint Resolution Directing the Board of Trustees of the Policemen's, Firemen's and Bandsmen's Pension Fund to Reopen and Reinvestigate the Pension Previously Allowed to Manuel P. Moranha.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of trustees of the policemen's, firemen's and bandsmen's pension fund is hereby authorized and directed to reopen, reinvestigate and reconsider the pension heretofore allowed by it to Manuel P. Moranha, who was seriously injured on July 16, 1914, while in the performance of his official duties as a police officer of the City and County

of Honolulu, and to readjust said pension upward if the facts justify.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved May 1, 1941.) **H.J.R. 25, J.R. 7.**

J.R. 8

Joint Resolution Authorizing the Board of Supervisors of the City and County of Honolulu to Provide Water for the Ewa Beach Lots, Puuloa Farms and Nanakuli Homesteads, Oahu.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the City and County of Honolulu is hereby authorized to provide adequate water for the Ewa Beach Lots, Puuloa Farms and Nanakuli Homesteads, Oahu.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved May 1, 1941.) **H.J.R. 37, J.R. 8.**

J.R. 9.

Joint Resolution Authorizing a Charge Against the General Fund of the Territory in the amount of twenty-two and 50/100 Dollars (\$22.50) for a Certain Duplicate Coupon of the Territory of Hawaii Public Improvement Bond Issue of December 31, 1920, Series "B".

WHEREAS, in the usual course of redeeming interest coupons on account of territorial public improvement bonds, the treasurer of the Territory of Hawaii did on July 18, 1934, redeem Coupon No. 27 of Territory of Hawaii Public Improvement Bond No. 2, issued on December 31, 1920, Series "B", 4- $\frac{1}{2}$ %, and did pay therefor the sum of twenty-two and 50/100 dollars (\$22.50) to and for the credit of the sinking fund of the Territory of Hawaii, holder of said coupon; and

WHEREAS, subsequent thereto, on November 24, 1934, the Bishop National Bank of Hawaii did present for payment a coupon numbered as a duplicate coupon No. 27 of Bond No. 2

of said Territory of Hawaii Public Improvement Bonds issued on December 31, 1920, Series "B", 4- $\frac{1}{2}$ %; and

WHEREAS, said coupon was and is negotiable in character, and the treasurer, having conducted an investigation into the facts surrounding said duplicate Coupon No. 27, did ascertain that said duplicate coupon was not a forgery but an engraving mistake made by the Union Lithograph Company of San Francisco, California, and did further ascertain that there has been a change in the ownership of said Union Lithograph Company of San Francisco and that it would be impracticable to endeavor to obtain reimbursement for said error; and

WHEREAS, said duplicate coupon is being held by the treasurer of the Territory of Hawaii, and legislative authority is required to charge the same against the general fund; and

WHEREAS, the said Territory of Hawaii Public Improvement Bond issue has been redeemed; now, therefore,

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the treasurer of the Territory of Hawaii is hereby authorized to charge against the general fund of the territory the sum of twenty-two and 50/100 dollars (\$22.50) for Coupon No. 27, numbered as a duplicate Coupon of Bond No. 2, of the Territory of Hawaii Public Improvement Bonds issued on December 31, 1920, Series "B", 4- $\frac{1}{2}$ %.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved May 3, 1941.) **H.J.R. 44, J.R. 9.**

J.R. 10

Joint Resolution Approving the General Provisions of "Master Plan" of the Town of Hanapepe, County of Kauai, Hawaii, as Published in Volume 7 "Master Plan of the Town of Hanapepe, County of Kauai, Hawaii, September 26, 1940", by the Territorial Planning Board in Collaboration With the Board of Supervisors of the County of Kauai; Empowering the Board of Supervisors of the County of Kauai to Adopt Such Portions of the Master Plan as Deemed Necessary for an Official Map; and Providing for the Disposition of Revenue Received From the Sale of Public Lands in the Town of Hanapepe

WHEREAS, need for a master plan for the town of Hanapepe was found when the territorial land office took over the old Brodie cane field lease for purposes of town development; and

WHEREAS, the Kauai board of supervisors requested the territorial planning board to provide such a plan and, at the request of said planning board, named a local committee to cooperate in the preparation of said master plan; and

WHEREAS, said plan was prepared and has been approved by the board of supervisors, county of Kauai, and the Hanapepe town-plan collaborating committee; and

WHEREAS, the development of said master plan can be conducted on a "pay-as-you-go" basis if the legislature of the Territory will direct that the proceeds of the sale of public lands in the town of Hanapepe, as delineated in the aforementioned master plan, is assigned to the county of Kauai specifically for the development of the town of Hanapepe; and

WHEREAS, the adoption of a master plan for the town of Hanapepe and provision for its development is essential because there is every reason to believe that the growth of Hanapepe will exceed the rate of growth of the islands as a whole; now, therefore

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of supervisors of the county of Kauai is hereby authorized to adopt such portions of the Master Plan of the town of Hanapepe, county of Kauai, Hawaii, prepared by the territorial planning board in collaboration with the board of supervisors of the county of Kauai, being publication No. 7, September 26, 1940, of the territorial planning board, as may be deemed desirable or necessary for the adoption by said board of supervisors of an official map of the section or of the island.

Section 2. The proceeds of the sale of public lands in the town of Hanapepe, as delineated in the aforementioned master plan, shall be allocated to the county of Kauai for the development and improvement of said town.

Upon allocation, the proceeds of such sales shall be expended by the board of supervisors, county of Kauai, Hawaii, in conformance with the provisions of the aforesaid master plan, and upon the approval of the commissioner of public lands.

For the purpose of executing the provisions of this section, the delimitation lines of the town of Hanapepe shall be those

as outlined on plate 1, page 13 (thirteen) of said "Master Plan" as published September 26, 1940, which is in accordance with similar lines established by the United States Census Bureau in 1940.

Section 3. This Joint Resolution shall take effect upon its approval.

(Approved May 8, 1941.) **S.J.R. 12, J.R. 10.**

J.R. 11.

Joint Resolution Directing the Board of Trustees of the Policemen's, Firemen's and Bandsmen's Fund to Reopen and Investigate the Pension Previously Allowed to William Kahalekai.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The board of trustees of the policemen's, firemen's and bandsmen's pension fund of the county of Maui is hereby authorized and directed to reopen, reinvestigate and reconsider the pension heretofore awarded by it to William Kahalekai, a police officer, with a view of readjusting said pension upward if the facts justify.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved May 8, 1941.) **S.J.R. 17, J.R. 11.**

J.R. 12

Joint Resolution Requesting the Congress of the United States in Enacting Legislation Affecting the Territory of Hawaii to Recognize the Right of This Territory to Equality of Treatment With the States of the Union.

WHEREAS, in 1923, the legislature of this territory passed and forwarded to Congress an Act known as the "Hawaii Bill of Rights" and entitled, "An Act to define and declare the claims of the Territory of Hawaii concerning its status in the American union, and to provide for the appointment of a commission to secure more complete recognition of such claims by

the federal government", which Act fully sets out the reasons for its passage and the status of this territory in the American union; and

WHEREAS, despite the said Act and the efforts of the commission created thereunder to secure the equality of treatment to which this territory is justly entitled, the Congress of the United States has passed numerous Acts directly affecting trade, business and industry wholly within the territory, in many of which Acts such wholly local trade, industry and commerce is classed as interstate commerce, thus substantially depriving the legislature of this territory of any regulatory jurisdiction thereover; now, therefore,

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Congress of the United States is hereby respectfully requested, in enacting legislation affecting trade, business or industry in Hawaii, to provide in such legislation, when including therein any definition of interstate or intrastate commerce, that such commerce shall, so far as the Territory of Hawaii is concerned, be determined by the same rules, laws and principles as similar commerce in or between the states of the union.

Section 2. The Congress of the United States is hereby respectfully requested to pass or enact a statement expressing the right of the Territory of Hawaii to the equality of treatment mentioned in section 1 hereof.

Section 3. This Joint Resolution shall, upon its approval, be forwarded to the President, to the President of the Senate, to the Speaker of the House of Representatives of the United States, to the Secretary of the Interior, and to the Delegate to Congress from the Territory of Hawaii.

Section 4. This Joint Resolution shall take effect upon its approval.

(Approved May 12, 1941.) **H.J.R. 38, J.R. 12.**

J.R. 13

Joint Resolution Designating and Establishing the Samuel Mahelona Memorial Hospital in the County of Kauai a Public Institution and Extending the Benefits of the "Retirement System"—Chapter 260 of the Revised Laws of Hawaii 1935, as Amended—to the Employees of the

Samuel Mahelona Memorial Hospital and Providing That Said Employees May Optionally Avail Themselves of the Privileges of the Retirement System.

WHEREAS, the attorney general of the Territory of Hawaii has advised the legislature of the Twenty-First Session of the Territory of Hawaii by his opinion filed therewith that the Samuel Mahelona Memorial Hospital in the county of Kauai is a public institution and not a privately owned and operated institution; and

WHEREAS, because until the opinion of the attorney general as aforesaid was filed with the legislature there was doubt as to the legal status of the Samuel Mahelona Memorial Hospital; and

WHEREAS, by reason of the doubtful legal status of this institution it was impossible to extend the privileges of the territorial retirement system as contained in chapter 260, Revised Laws of Hawaii 1935, as amended, to the employees of the Samuel Mahelona Memorial Hospital; and

WHEREAS, the opinion of the attorney general of the Territory has clarified the legal status of the institution; and

WHEREAS, it is desirable that the privileges and benefits of the territorial retirement system be extended to the employees of the Samuel Mahelona Memorial Hospital upon like terms and conditions as it is enjoyed by employees of territorial institutions under the provisions of chapter 260, Revised Laws of Hawaii 1935, as amended; now, therefore,

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Samuel Mahelona Memorial Hospital in the county of Kauai is hereby designated to be and is established as a public institution.

Section 2. The provisions of chapter 260, Revised Laws of Hawaii 1935, and all amendments thereto, are hereby made applicable to the employees of the Samuel Mahelona Memorial Hospital, and said employees are and shall be entitled to all the privileges and benefits thereunto appertaining under the provisions of said chapter; provided, that said employees may exercise their option to avail themselves of said privileges and benefits and that upon the exercise of said option to avail themselves of said privileges and benefits, any employee of the Samuel Mahelona Memorial Hospital shall contribute such an amount to the retirement fund under the provisions of

chapter 260, Revised Laws of Hawaii 1935, as amended, as he would have been required to contribute under said chapter and the rules and regulations of said retirement fund if he had been eligible for such benefits and privileges under the law at the time he became an employee of the Samuel Mahelona Memorial Hospital.

Section 3. This Joint Resolution shall take effect upon its approval.

(Approved May 14, 1941.) S.J.R. 15, J.R. 13.

J.R. 14

Joint Resolution Determining a Time Limit During Which Employees of the Samuel Mahelona Memorial Hospital in the County of Kauai May Avail Themselves of the Retirement System (Chapter 260, Revised Laws of Hawaii 1935, as Amended) Benefits and Prescribing When Required Payments Thereunder Must Be Made.

WHEREAS, the attorney general of the Territory of Hawaii has advised the legislature of the Territory of Hawaii by his opinion filed therewith, that the Samuel Mahelona Memorial Hospital in the county of Kauai is a public institution and not a privately owned and operated institution; and

WHEREAS, it is the intent of the legislature to afford to the employees of the Samuel Mahelona Memorial Hospital, upon their option, the benefits of the territorial retirement system, as set out in chapter 260 of the Revised Laws of Hawaii 1935, as amended; now, therefore,

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The provisions of chapter 260 of the Revised Laws of Hawaii 1935, and all amendments thereto, are hereby made applicable to the employees of the Samuel Mahelona Memorial Hospital in the county of Kauai, and said employees are and shall be entitled to all the privileges and benefits thereunto appertaining under the provisions of said chapter; provided that said employees of the Samuel Mahelona Memorial Hospital may exercise their option to avail themselves of said privileges and benefits; that the exercise of any option by an employee under the provisions of this Joint Resolution must be exercised before July 1, 1941, and that upon such election of an employee of the said hospital to avail himself or herself

of the privileges and benefits of the retirement system under the provisions of this joint resolution, such employee shall have thirty months from the date of such election in which to complete and make such payments as he or she may be required to make to the retirement fund under the provisions of chapter 260 of the Revised Laws of Hawaii 1935, as amended.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved May 14, 1941.) **S.J.R. 20, J.R. 14.**

J.R. 15

Joint Resolution Requesting and Directing the Commissioner of Public Lands to Acquire, by Purchase or Condemnation, That Certain Parcel of Land Situate at Kealakomo, in the District of Puna, County of Hawaii, for the Use by the United States as Part of the Hawaii National Park.

WHEREAS, the 75th Congress of the United States enacted H. B. 1995, which provides that when title to certain lands on the island of Hawaii are vested in the United States that such lands as enumerated in said Act shall be added and made a part of the Hawaii National Park; and

WHEREAS, the land of Kealakomo, being Grant 2893, issued to Kenaaulani et al., and containing an area of 4289.4 acres is included in H. B. 1995; now, therefore,

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The commissioner of public lands be and he is hereby requested and directed to acquire by purchase or condemnation, for use by the United States as part of the Hawaii National Park, that certain parcel of land situate at Kealakomo, in the district of Puna, county of Hawaii, described and designated as Grant 2893 to Kenaaulani et al., and containing an area of 4289.4 acres.

Section 2. Any funds necessary to carry out the purpose of this joint resolution are hereby appropriated out of the general funds of the Territory and the payment thereof shall be by the treasurer of the Territory upon warrants issued by the auditor upon vouchers signed by the commissioner of public lands.

Section 3. This Joint Resolution shall take effect upon its approval.

(Approved May 16, 1941.) **S.J.R. 23, J.R. 15.**

J.R. 16

Joint Resolution Authorizing and Directing the Commissioners and Superintendent of Public Instruction to Restore Maemae School to Its Former Status Existing During the 1939-1940 School Term.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The commissioners and superintendent of public instruction are hereby authorized and directed to restore to and maintain in its former status existing during the 1939-1940 school year Maemae School, situated at Wyllie Street in Honolulu, and to register and accept all students eligible under said former status who were compelled to and did leave said institution and to provide them with qualified instructors.

Section 2. The commissioners and superintendent of public instruction are hereby directed to re-transfer to Lincoln School and Kapalama School, respectively, the pupils transferred from said schools to Maemae School upon the change of the latter to an English Standard School and, further, to arrange accommodations in other English Standard schools for any other pupils in Maemae School with English Standard school qualifications.

Section 3. This Joint Resolution shall take effect on September 1, 1941.

(Approved May 17, 1941.) **H.J.R. 40, J.R. 16.**

J.R. 17

Joint Resolution Memorializing Congress to Appropriate Funds for the Construction of a Highway from Hilo Through the Saddle Between Mauna Kea and Mauna Loa to Kona, County of Hawaii.

WHEREAS, a highway from Hilo through the saddle between Mauna Kea and Mauna Loa to the district of Kona, County of Hawaii, would be of the utmost value to the federal govern-

ment as a national defense measure, thus enabling the rapid movement of troops and artillery directly across the Island of Hawaii, and obviating the hazard of the interruption of such movements in the event of damage to bridges on the presently existing highways; and

WHEREAS, the construction of such a highway would open up several thousand acres of tillable land, and ranching area, thus assisting the territory to become self-subsisting in time of blockade or interruption of transportation from the mainland during time of strikes; and

WHEREAS, the proposed highway would open unlimited sites for air ports, air and artillery bases strategically located toward the center of the Island of Hawaii; and

WHEREAS, such highway would open up vast national park possibilities, as well as recreational activities for tourists and the residents of the territory; and

WHEREAS, such highway would almost entirely traverse land owned by the government, thus obviating practically all expense in obtaining the necessary rights-of-way; now, therefore,

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the Congress of the United States is respectfully requested to appropriate funds necessary to construct a highway from Hilo through the saddle between Mauna Kea and Mauna Loa to the district of Kona, County of Hawaii.

Section 2. That this Joint Resolution shall, upon its approval, be forwarded to the President, the President of the Senate, the Speaker of the House of Representatives, of the United States, the Secretaries of War, Navy and Interior of the United States, the Delegate to Congress from the Territory of Hawaii, the Commanding General of the Hawaiian Department and the Commandant of the Fourteenth Naval District.

Section 3. This Joint Resolution shall take effect upon its approval.

(Approved May 19, 1941.) **H.J.R. 8, J.R. 17.**

J.R. 18

Joint Resolution Endorsing the Recommendations Contained in Investigational Report Number 42, Made in 1939 by Representatives of the Bureau of Fisheries of the United States Department of Commerce.

WHEREAS, the Legislature of the Territory of Hawaii in 1939, by House Concurrent Resolution No. 59, requested the United States Bureau of Fisheries to make a survey of Hawaiian fish and fisheries as a source of food supply; and

WHEREAS, in the same year the said bureau sent two of its staff members, Frank T. Bell and Elmer Higgins, to Hawaii to study existing fishing conditions "to determine whether the federal government should assist the Territory of Hawaii in developing its fisheries, and if so, in what ways and to what extent"; and

WHEREAS, in said year the said staff members, after an investigation, submitted to the bureau their report, entitled, "A Plan for the Development of the Hawaiian Fisheries", which report has been published by the United States Department of Commerce Bureau of Fisheries as Investigational Report No. 42; and

WHEREAS, the said report recommended, among other things, that a well-balanced program of research should be undertaken jointly by the federal and territorial governments, to provide a sound basis for future developments, this research to be in two fields, (1) biology, including offshore fisheries, inshore fisheries and pond culture; and (2) technology and economics of the fisheries, including chemical and engineering studies of methods of canning, refrigeration, or other means of preservation of fishery products, the development of new products, the utilization of by-products and improved methods of shipment and general distribution; a study of improved methods of capture and of the economics of the entire fishing industry and its organization, including the possibilities of cooperative production and marketing, and increase of employment in the industry; and

WHEREAS, the said report recommends that the Congress appropriate to the bureau of fisheries substantial sums each year for use in carrying out, in cooperation with the territory, the recommendations of said report, and that the Legislature of Hawaii appropriate the sum of ten thousand dollars (\$10,000.00) per year for the employment of skilled, technical personnel in the division of fish and game of the board of agriculture and forestry of the territory, and for the purpose of assist-

ing the division to cooperate with the bureau of fisheries in fishery investigations; now, therefore,

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. That the Legislature of the Territory of Hawaii hereby accepts and adopts the recommendations contained in the aforesaid Investigational Report No. 42, pledges the full cooperation of the territory with the federal government in carrying out the recommendations contained in said report, and respectfully requests the Congress of the United States to enact appropriate legislation, including the necessary appropriation to enable the carrying out of the full program recommended in said report.

Section 2. That duly authenticated copies of this Joint Resolution be transmitted to the Delegate to Congress from Hawaii, the Secretary of the Interior, the President of the Senate and the Speaker of the House of Representatives of the United States.

Section 3. This Joint Resolution shall take effect upon its approval.

(Approved May 19, 1941.) **H.J.R. 31, J.R. 18.**

J.R. 19

Joint Resolution Requesting the Congress of the United States to Amend Sections 203 (3) and 207 (1) (a) of the Hawaiian Homes Commission Act of 1920.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Congress of the United States is hereby respectfully requested, through the Delegate to Congress from the Territory of Hawaii, to make certain amendments to the Hawaiian Homes Commission Act of 1920, as amended, as more particularly set forth in the proposed form of the Bill hereinafter set out; and to that end the Congress of the United States is hereby requested and urged, through said Delegate to Congress, to enact and adopt a Bill amendatory of the Hawaiian Homes Commission Act of 1920, as amended, in substantially the following words and figures, to wit:

"A Bill to withdraw and restore to their previous status under the control of the Territory of Hawaii certain Hawaiian home lands now in use as an airplane landing field.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled,

That so much of Section 203 of Title 2 of the Act entitled 'Hawaiian Homes Commission Act, 1920' approved July 9, 1921 (42 Stat. 108) as designates the land hereinafter described as 'available lands' within the meaning of that Act, is hereby repealed and the land restored to its previous status under the control of the Territory of Hawaii. On the Island of Molokai: Those portions of Hoolehua, Apana 2, and Palaaau, Apana 2, being additions to the Molokai airplane landing field, comprising two parcels of land, as follows:

Parcel 1. As set aside for public purposes by the Executive Order Numbered 809 of the governor of the Territory of Hawaii, dated July 15, 1938, and consisting of twenty and seven hundred eighty-four thousandths acres, more or less, and particularly described as follows:

Beginning at the Northwest corner of this parcel of land and the present Southwest corner of the Molokai airport (Executive Order No. 307, dated December 16, 1927), the coordinates of said point of beginning referred to Government Survey Triangulation Station 'Middle Hill' being 243.12 feet North and 16124.03 feet West, as shown on Government Survey Registered Maps 2821 and 2903 and running by azimuths measured clockwise from true South:

1. 265° 10' 30" 1380.00 feet along the North side of Mahana Avenue along Molokai Airport (Executive Order No. 307) and along United States Army Reservation (Executive Order No. 665, dated October 28, 1935);
2. 41° 30' 30" 1247.39 feet along the proposed Northwest side of Pipika Avenue Extension;
3. Thence along the proposed Northwest side of Pipika Extension on a curve to the right with a radius of 548.14 feet, the chord azimuth and distance being 63° 16' 30" 406.53 feet;
4. 85° 02' 30" 136.30 feet along the proposed North side of Pipika Avenue Extension;
5. Thence on a curve to the right with a radius of 60.00 feet, the chord azimuth and distance being 132° 59' 30" 89.11 feet;
6. 180° 56' 30" 952.00 feet along the East side of a 50-foot road to the point of beginning.

Parcel 2. As returned to the commissioner of public lands of the Territory of Hawaii by resolution numbered 68 of the Hawaiian Homes Commission, dated March 3, 1941, and consisting of thirteen and five hundred twenty-seven thousandths acres, more or less, and particularly described as follows:

Beginning at the Southeast corner of this piece of land, on the West boundary of the present Molokai Airport, the true azimuth and distance from the Northwest corner of Executive Order No. 809 being $00^{\circ} 56' 30''$ 242.00 feet, and the coordinates of said point of beginning referred to Government Survey Triangulation Station 'Middle Hill' being 1.15 feet North and 16,128.01 feet West, thence running by true azimuths measured clockwise from South:

1. $60^{\circ} 25'$ 841.74 feet along the remainders of 50-foot road and lot 170 of the Hawaiian Homes land;
2. $180^{\circ} 56' 30''$ 812.62 feet along the remainder of lot 170 of the Hawaiian Homes land;
3. $240^{\circ} 25'$ 841.74 feet along the remainders of lot 170, Pine Avenue, lot 158 and 50-foot road of the Hawaiian Homes land, to the West side of the present Molokai airport;
4. $00^{\circ} 56' 30''$ 812.62 feet along the West side of the present Molokai airport to the point of beginning.

Section 2. This Act shall take effect upon its approval."

Section 2. The Congress of the United States is hereby requested to amend section 207 (1) (a) of the Hawaiian Homes Commission Act of 1920, so that it will read as follows:

"Section 207 (1) (a). The commission is authorized to lease to native Hawaiians the right to the use and occupancy of a tract or tracts of Hawaiian home lands within the following acreage limits per each lessee: (1) not less than one nor more than 40 acres of agricultural lands; or (2) not less than 100 nor more than 500 acres of first-class pastoral lands; or (3) not less than 250 nor more than 1,000 acres of second-class pastoral lands; or (4) not more than one acre of any class of land to be used as a residence lot; provided, however, that in the case of any existing lease of a farm lot in the Kalaniana'ole Settlement on Molokai, a residence lot may exceed one acre but shall not exceed four acres in area, the location of such area to be selected by the lessee concerned, and pro-

vided, further, that a lease granted to any lessee may include both a residence and an agricultural or pastoral lot, the gross acreage of both lots not to exceed the maximum acreage of either the agricultural or pastoral lot, as the case may be, and as provided for in this section; and provided, further, that any such detached residence lot shall be located on the same island as the agricultural or pastoral lot concerned, and within a reasonable distance thereof."

Section 3. The Secretary of Hawaii is hereby requested and directed to forward certified copies of this Joint Resolution to the Delegate to Congress from Hawaii, to the Secretary of the Interior, and to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States.

Section 4. This Joint Resolution shall take effect upon its approval.

(Approved May 19, 1941.) **S.J.R. 19, J.R. 19.**

J.R. 20

Joint Resolution Directing the Installation of a Plaque in Commemoration of the Work of the Late Louis S. Cain in Connection With Waikiki Beach.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The superintendent of public works and the board of harbor commissioners of the Territory of Hawaii are hereby authorized and directed to install an appropriate plaque in that portion of Waikiki beach, known as Kuhio Park, bearing a legend to the effect that the construction of the beach in that section has been due to the foresight, imagination and engineering skill of Louis S. Cain, deceased, while superintendent of public works and chairman of the board of harbor commissioners of the Territory of Hawaii, the cost thereof to be paid out of moneys appropriated by the item "Other Current Expenses", under the heading of "board of commissioners" in the general appropriation act for the biennium ending June 30, 1943.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved May 19, 1941.) **H.J.R. 32, J.R. 20.**

J.R. 21

Joint Resolution Directing the Commissioners of Public Instruction to Make Public School Grounds in the City and County of Honolulu and in the County of Hawaii Available After School Hours for Use by the Recreation Commission of Said Counties Under Certain Circumstances.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The commissioners of public instruction are hereby authorized and directed upon request by the recreation commission of the City and County of Honolulu or of the County of Hawaii to make school grounds available after school hours, in the respective counties where the request is made, for use by the commission requesting the same whenever such can be done without interference with the normal and usual activities of the school, and its pupils, concerned.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved May 19, 1941.) **H.J.R. 16, J.R. 21.**

J.R. 22

Joint Resolution Directing the Territorial Planning Board to Prepare a Master Plan for Needed and Future Public School Buildings and for the Presentation of Such Master Plan to the 1943 Legislature.

WHEREAS, there has never been prepared a comprehensive plan for public school buildings needed for the present and future schools throughout the territory; and

WHEREAS, the policy has been to design and place buildings within limited available land and unrelated to future growths; and

WHEREAS, there is now available the master plan for present and future land sites of the territorial public schools; and

WHEREAS, reasonable planning of these buildings to fit said land master plan, can obviate an undesirable, expensive and uncoordinated procedure; now, therefore,

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The territorial planning board is hereby authorized and directed, with the collaboration of the department of public instruction and the department of public works of the several counties, or their county engineers, as the case may be, to prepare plans and specifications covering all future projects, as required, wherein additions, improvements and new buildings be requested for elementary, intermediate, vocational, high schools, and/or school auditorium purposes throughout the territory.

Such plans and specifications shall be made so as to provide, as near as possible, a standardized uniform type of building or buildings best suited to conditions in the Territory of Hawaii and which are at the same time economical and efficient.

Section 2. This Joint Resolution shall take effect from and after the date of its approval.

(Approved May 20, 1941.) **H.J.R. 2, J.R. 22.**

J.R. 23

Joint Resolution to Provide for Forwarding to the Chairman of the Committee on Territorial Affairs of the Senate of the United States, to the Chairman of the Committee on the Territories of the House Representatives of the United States and to the Delegate to Congress from Hawaii All Reports of the Several Committees of the Legislature of the Territory of Hawaii on All Matters Emanating from Said Legislature to be Considered by the Congress of the United States.

Be It Enacted by the Legislature of the Territory of Hawaii:

Section 1. The Secretary of the Territory of Hawaii is hereby authorized and directed to procure from the Clerk of the Senate and from the Clerk of the House of Representatives of the Legislature of the Territory of Hawaii three duly certified copies of each committee report made to said Houses respectively on all bills, joint resolutions, concurrent resolutions, resolutions, and all other matters finally acted upon by said legislature and requiring the attention of the

Congress of the United States, and to promptly forward one copy thereof to the chairman of the committee on Territorial Affairs of the Senate of the United States, one copy thereof to the chairman of the committee on the Territories of the House of Representatives of the United States and one copy thereof to the Delegate to Congress from Hawaii.

Section 2. This Joint Resolution shall take effect upon its approval.

(Approved May 21, 1941.) **H.J.R. 14, J.R. 23.**



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